

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-569 of 2025

Applicant : Abdul Ghafoor son of Shahdad, Mazari
Through Mr. Sajid Ali Dayo, Advocate

Respondent No.3 : Akbar Ali son of Sultan Khan, Mazari
Through Mr. Mohsin Majeed Memon, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 24th November, 2025
Date of Order : 27th November, 2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Abdul Ghafoor has invoked the inherent jurisdiction of this court, calling in question order dated 17th September, 2025 passed by the learned Additional Sessions Judge, Ubauro, who while acting as Ex-Officio Justice of Peace, allowed the Criminal Miscellaneous Application No.1599 of 2025 filed by respondent No.3, and directed the Station House Officer, Police Station Khambhra, to record the statement of respondent No.3 as per his verbatim and investigate the matter in accordance with law.

2. The brief facts, as emerging from the record, are that respondent No.3 Akhtar Ali filed Criminal Miscellaneous Application No.1599 of 2025 under Sections 22-A(6)(i) and 22-B of the Criminal Procedure Code before the learned Sessions Judge/Justice of Peace, Ghotki, which was subsequently transferred to the Court of the learned Additional Sessions Judge, Ubauro. In the said application, respondent No.3 alleged that the proposed accused persons, namely Abdul Ghafoor (applicant), Abdul Razzaque, and Bakhat Ali, all by caste Mazari and residents of village Meerali Khan Mazari, Taluka Ubauro, District Ghotki, had friendly and visiting terms with his family and were of the same caste. Respondent No. 3 alleged that some time ago, he had restrained two of the proposed accused, namely Bakhat Ali and Abdul Razzaque, from visiting his house due to their bad habits. On 23rd March, 2025 at about 12:00 PM, all three proposed accused came to his house on two motorcycles and requested

permission to take his son Shahid Ali to Kashmore for some work. In the presence of his wife Mst. Saleeman and his son Zahid Ali, respondent No.3 allowed his son Shahid Ali to accompany the proposed accused persons. After about thirty to forty minutes, respondent No.3, along with his wife Mst. Saleeman and son Zahid Ali, proceeded on a motorcycle towards Gudu for medical treatment of his wife. At about 01:00 PM, when they reached near Samano Dhandh, they heard the cries of Shahid Ali beside the road. Upon seeing the family members, the proposed accused persons fled towards Waris Pull, Gudu Road, on their motorcycles. Respondent No.3 and the accompanying witnesses got down from the motorcycle and found his son Shahid Ali with hard and blunt injuries on his head and neck, lying unconscious. Respondent No.3 immediately took his injured son Shahid Ali to District Headquarters Hospital, Rahim Yar Khan, for medical treatment to save his life. Shahid Ali remained under medical treatment at the said hospital until 27th March, 2025 when he was discharged with advice from the doctors to return for further treatment after *Eid-ul-Fitr*. On 02nd April, 2025 Shahid Ali succumbed to his injuries. According to respondent No.3, after the death of Shahid Ali, the proposed accused persons, along with their elders, women, and carrying the Holy Quran, came to his house and admitted their guilt. They requested a settlement (*faisla*) and offered to pay compensation (*Diyat*), and requested that no FIR be registered against them. Out of respect for the Holy Quran, the elders, and the women, respondent No.3 agreed to a settlement after the condolence ceremony within fifteen days. However, when respondent No.3 approached the proposed accused persons after fifteen days for the settlement, they asked him to come again after another fifteen days. Respondent No.3 alleges that he approached them time and again for the *faisla*, but they kept him on false hopes. Ultimately, they refused the settlement and issued threats of murder to his whole family if he demanded *faisla* or came to their house again. Respondent No.3 further alleged that the proposed accused committed the murder of his son Shahid Ali by causing hard

and blunt injuries on his head and neck in retaliation for being restrained from visiting his house. After the refusal of *faisla* by the proposed accused, respondent No.3, along with witnesses, went to the Station House Officer, Police Station Khambhra, and requested the registration of an FIR against the proposed accused. However, the SHO kept him on false hopes and ultimately, on 12th August, 2025, totally refused to register the FIR, allegedly because the proposed accused are highly influential persons and have the backing of local waderas (landlords) of the locality. Being aggrieved by the refusal of the police to register the FIR, respondent No.3 filed the application under Sections 22-A(6)(i) and 22-B Cr.P.C before the learned Justice of Peace.

3. The learned Justice of Peace called for a police report. An inquiry was conducted by DSP Complaint Redressal Centre, Ghotki, and a detailed report was submitted. During the inquiry, the proposed accused Abdul Ghafoor Mazari and Abdul Razzaque Mazari appeared personally and recorded their statements, categorically denying the allegations. They stated that the deceased Shahid Ali alias Babloo had friendly terms with Jan Muhammad Mazari, son of Abdul Ghafoor, and they often worked together as laborers in Balochistan. Three to four days prior to the last *Eid-ul-Fitr*, Shahid Ali alias Babloo, along with Jan Muhammad Mazari, Sanaullah son of Alim Khan Mazari, and some others, travelled to Kashmore on five to six motorcycles for the purpose of visiting the city park and Eid shopping. While on their way, Shahid Ali alias Babloo unfortunately met with a road traffic accident with a car within the remits of Police Station Guddu, District Kashmore. As a result of the accident, Shahid sustained serious injuries. He was immediately shifted to Guddu Hospital for first aid and then shifted to Sheikh Zayed Hospital, Rahim Yar Khan, Punjab, where he remained admitted and under treatment for three days. After his condition improved, he was discharged from the hospital and returned his residence. After some days, Shahid alias Babloo unfortunately succumbed

to his injuries and expired. The proposed accused persons attended his funeral ceremony and paid condolences to the bereaved family.

4. The inquiry report also mentioned that statements of three witnesses, namely Zia-ul-Rehman son of Ghulam Nabi Bari, Haitum son of Wahid Bux Mazari (both serving as security guards at Discon Company, Guddu Barrage), and Sona Khan son of Nazar Muhammad Mazari, were recorded. These witnesses stated that while performing duty at Guddu Barrage, they witnessed a collision between a car and a motorcycle in which one Shahid Mazari sustained injuries, who was thereafter shifted to Guddu Hospital by his relatives. Based on the inquiry report, the DSP Complaint Redressal Centre submitted that the death of Shahid alias Babloo was the result of a road accident in Kashmore and not due to any criminal act of the proposed accused. The proposed accused were found not guilty of any offence in this connection. Despite the inquiry report submitted by the police, the learned Justice of Peace, vide the impugned order dated 17th September, 2025, allowed the application filed by respondent No.3 and directed the SHO, Police Station Khambhra, to record the statement of the complainant in verbatim and thereafter proceed with the matter in accordance with law. However, the learned Justice of Peace clarified that if the FIR is registered, the accused may not be arrested until and unless sufficient and cogent evidence is collected during the course of investigation. Aggrieved by the said order, the present applicant Abdul Ghafoor has filed this Criminal Miscellaneous Application under Section 561-A Cr.P.C before this Court.

5. Learned counsel for the applicant has vehemently argued that the impugned order passed by the learned Justice of Peace is illegal, unlawful, arbitrary, and without jurisdiction. It is submitted that the learned Justice of Peace has passed the impugned order in a hasty manner without applying his judicial mind and without going through the real facts and circumstances of the case. It is contended that the police report submitted by the DSP Complaint

Redressal Centre is a supportive piece of documentary evidence and cannot be rejected. The inquiry report clearly establishes that the death of Shahid alias Babloo was the result of a road traffic accident that occurred within the remits of Police Station Guddu, District Kashmore, and not due to any criminal act of the present applicant party. During the inquiry, the applicant Abdul Ghafoor Mazari and Abdul Razzaque Mazari appeared personally and recorded their statements, categorically denying the allegations. Three independent witnesses, who were security guards at Guddu Barrage, also corroborated the version of the proposed accused and stated that they witnessed the road accident in which Shahid Mazari sustained injuries. Learned counsel has further submitted that from a plain reading of the application filed by respondent No.3, it is evident that the whole story mentioned therein is false, fabricated, unbelievable, and managed with malafide intention and ulterior motives in order to falsely implicate the present applicant in a criminal case. The most glaring aspect of the case is the inordinate delay in approaching the Justice of Peace. The alleged incident is stated to have occurred on 23rd March, 2025, and the death of Shahid Ali occurred on 02nd April, 2025. However, the application for registration of FIR was filed before the learned Justice of Peace on or around August, 2025, after a delay of more than five months. There is nothing on record to show that respondent No. 3 had made any earlier effort to approach the police or any other authority for registration of the FIR. It is argued that such an inordinate delay in approaching the Justice of Peace raises serious doubts about the genuineness of the allegations. If respondent No. 3's son had truly been murdered by the proposed accused persons, he would have immediately approached the police for registration of the FIR. The fact that he remained silent for more than five months and only filed the application under Section 22-A Cr.P.C after such a long delay indicates that the allegations are an afterthought and have been fabricated with mala fide intention. Learned counsel has also pointed out that respondent No. 3 has concealed the real facts about the road accident of his son

and has misled the Court by presenting a false and fabricated story. Such conduct on the part of respondent No.3 is highly reprehensible and amounts to abuse of the process of law. It is further submitted that it is a settled principle of law that the Ex-Officio Justice of Peace has to apply his mind as to whether the applicant has approached the Court with clean hands or whether the application is tainted with malice. In the present case, the learned Justice of Peace has not applied his judicious mind and has passed the impugned order by allowing the application of respondent No.3 without reasonable grounds. The impugned order is unwarranted and liable to be set aside. It is prayed that this Criminal Miscellaneous Application be allowed, the impugned order dated 17th September, 2025 be set aside, and the application filed by respondent No.3 be dismissed.

6. On the other hand, learned counsel for respondent No.3 has opposed the application and has supported the impugned order passed by the learned Justice of Peace. It is submitted that respondent No.3 has made serious allegations of murder against the proposed accused persons. The allegations, if taken at their face value, clearly disclose the commission of a cognizable offence punishable under Section 302 PPC read with Section 34 PPC. It is argued that the role of the Justice of Peace under Section 22-A Cr.P.C is administrative in nature and is confined to examining whether the information disclosed by the applicant makes out a cognizable case or not. The Justice of Peace is not required to conduct a full-fledged inquiry or to assume the role of an investigator. The question as to whether the allegations are true or false is a matter of investigation, and it is for the investigating officer to probe into the matter and submit a report under Section 173 Cr.P.C. It is submitted that respondent No.3 has alleged that his minor son Shahid Ali was murdered by the proposed accused persons by causing hard and blunt injuries on his head and neck. The allegations clearly disclose the commission of a cognizable offence. The learned Justice of Peace, after examining the matter, rightly directed the

SHO to record the statement of the complainant and register the FIR. The learned Justice of Peace has also given adequate protection to the proposed accused by directing that they may not be arrested until and unless sufficient and cogent evidence is collected during the course of investigation. It is argued that the inquiry report submitted by the police cannot be a basis for refusing registration of FIR. The inquiry report is in the nature of a police report, and it cannot override the statutory obligation of the police to register an FIR upon receipt of information regarding the commission of a cognizable offence. It is further submitted that the delay in filing the application is satisfactorily explained. Respondent No.3 states that after the death of his son, the proposed accused persons came to his house with elders and women, carrying the Holy Quran, and requested a settlement. Out of respect for the Holy Quran and the elders, respondent No.3 agreed to give them an opportunity for settlement. However, when the proposed accused persons refused to settle and issued threats of murder, respondent No.3 approached the police for registration of the FIR. When the police refused, he was constrained to approach the Justice of Peace. The delay is thus satisfactorily explained and cannot be a ground to refuse registration of FIR. It is prayed that the present application be dismissed and the impugned order be maintained.

7. The learned DPG for the State has supported the contentions of the applicant and has submitted that the inquiry conducted by the DSP Complaint Redressal Centre clearly establishes that the death of Shahid alias Babloo was the result of a road traffic accident and not due to any criminal act of the proposed accused persons. Three independent witnesses have corroborated the version of the proposed accused. In such circumstances, the application filed by respondent No.3 appears to be false and fabricated, and the learned Justice of Peace ought to have dismissed the same.

8. Having heard the learned counsel for the parties at considerable length and having perused the record with utmost care and attention, this Court

is of the considered view that the present application is liable to be allowed and the impugned order passed by the learned Justice of Peace is liable to be set aside for the reasons stated hereinafter.

9. At the outset, it is necessary to reiterate the legal position regarding the scope and ambit of the powers vested in the Justice of Peace under Section 22-A of the Criminal Procedure Code. The Honourable Supreme Court of Pakistan in the landmark judgment of *Syed Qamber Ali Shah versus Province of Sindh* (2024 SCMR 1123) has elaborately dealt with this issue and has held that the role of the Justice of Peace is administrative in nature and is confined to ensuring that the procedural requirements of law are complied with. The Justice of Peace is not required to scrutinize the merits of the case or to render findings on the veracity of the allegations. If the information disclosed by the applicant *prima facie* discloses the commission of a cognizable offence, the Justice of Peace must direct the police to register the FIR. The question as to whether the allegations are true or false is a matter of investigation, and it is for the investigating officer to probe into the matter. However, this principle is not absolute and is subject to certain well-recognized exceptions. The law does not mandate the registration of FIR in cases where the application itself is manifestly false, fabricated, frivolous, vexatious, or is filed with malafide intention or ulterior motives. In such cases, the Justice of Peace has the discretion to dismiss the application.

10. The present case, in the considered opinion of this Court, falls squarely within the exception. The application filed by respondent No.3 before the learned Justice of Peace suffers from several fatal infirmities which render it unsustainable in the eye of law. *First* and foremost is the question of inordinate and unexplained delay. The alleged incident is stated to have occurred on 23rd March, 2025, and the death of Shahid Ali occurred on 02nd April, 2025. However, the application for registration of FIR was filed before the learned Justice of Peace in or around August, 2025, after a delay of more

than five months. There is nothing on record to show that respondent No.3 had made any earlier effort to approach the police or any other authority for registration of the FIR during this entire period. The law is well settled that delay in lodging the FIR creates serious doubt about the genuineness of the prosecution case. While it is true that mere delay is not always fatal, and each case must be examined on its own facts and circumstances, an inordinate and unexplained delay raises a strong presumption that the FIR has been lodged as an afterthought and is the result of deliberation and consultation.

11. In the present case, the delay of more than five months is wholly unexplained. If respondent No.3's son had truly been murdered by the proposed accused persons in the brutal manner alleged, it defies common sense and human probabilities that he would remain silent for more than five months and not make any attempt to approach the police or any other authority for registration of the FIR. The natural reaction of a father whose son has been murdered would be to immediately approach the police and seek justice. The fact that respondent No.3 remained silent for such an inordinate period raises serious doubts about the genuineness of his allegations. The explanation offered by respondent No.3 for the delay is that the proposed accused persons came to his house with elders and women, carrying the Holy Quran, and requested a settlement, and that he agreed to give them time for settlement. However, this explanation is wholly unsatisfactory. Even if it is assumed that respondent No. 3 had agreed to a settlement, such an agreement cannot justify a delay of more than five months in approaching the police or the Justice of Peace. Moreover, if the proposed accused persons had truly admitted their guilt and offered to pay Diyat, as alleged by respondent No. 3, it is strange that he did not reduce such admission to writing or take any other steps to protect his legal rights.

12. *Secondly*, the application filed by respondent No.3 is directly contradicted by the inquiry report submitted by the DSP Complaint Redressal Centre, Ghotki. The inquiry report, which was conducted in a fair and

transparent manner, establishes that the death of Shahid alias Babloo was the result of a road traffic accident that occurred within the remits of Police Station Guddu, District Kashmore, and not due to any criminal act of the proposed accused persons. During the inquiry, the proposed accused Abdul Ghafoor Mazari and Abdul Razzaque Mazari appeared personally and recorded their statements, categorically denying the allegations and explaining the circumstances leading to the death of Shahid Ali. More importantly, the inquiry report mentions that statements of three independent witnesses, namely Zia-ul-Rehman son of Ghulam Nabi Bari, Haitum son of Wahid Bux Mazari (both serving as security guards at Discon Company, Guddu Barrage), and Sona Khan son of Nazar Muhammad Mazari, were recorded. These witnesses stated that while performing duty at Guddu Barrage, they witnessed a collision between a car and a motorcycle in which one Shahid Mazari sustained injuries, who was thereafter shifted to Guddu Hospital by his relatives. The statements of these witnesses corroborate the version of the proposed accused and establish that the incident was a road traffic accident and not a murder. It is significant to note that respondent No.3 has not been able to produce any witness or any tangible evidence to support his version of events. On the contrary, the inquiry report contains statements of three independent witnesses who have no axe to grind and who have corroborated the version of the proposed accused. While it is true that the inquiry report submitted by the police cannot, as a general rule, be a basis for refusing registration of FIR, this principle is subject to the exception that where the inquiry report conclusively establishes that the allegations made in the application are false and fabricated, the Justice of Peace has the discretion to dismiss the application. In the present case, the inquiry report, which is based on statements of independent witnesses, conclusively establishes that the death of Shahid Ali was the result of a road traffic accident and not due to any criminal act of the proposed accused persons.

13. *Thirdly*, the learned Justice of Peace failed to consider the most crucial aspect of the case, namely the fact that a report was also called from the SHO, Police Station Guddu. According to the impugned order, the learned Justice of Peace called for a report from Police Station Guddu, which is the jurisdiction where the road traffic accident allegedly occurred. However, the impugned order mentions that the report submitted by the SHO, Police Station Guddu, stated that from their secret as well as open inquiry, they found that deceased Shahid alias Babloo had not met with an accident within the local limits of Police Station Guddu. This creates a serious contradiction. On the one hand, the inquiry report submitted by the DSP Complaint Redressal Centre, based on statements of three independent witnesses, establishes that the road traffic accident occurred within the jurisdiction of Police Station Guddu. On the other hand, the report submitted by the SHO, Police Station Guddu, states that no such accident occurred within their jurisdiction. This contradiction ought to have been resolved by the learned Justice of Peace before passing the impugned order. The learned Justice of Peace ought to have called the three witnesses whose statements are mentioned in the inquiry report and examined them to ascertain the truth. However, the learned Justice of Peace, without resolving this crucial contradiction, allowed the application and directed the registration of FIR.

14. *Fourthly*, the allegations made by respondent No.3 in his application are inherently improbable and contrary to human conduct. Respondent No.3 alleges that on 23rd March, 2025, the proposed accused persons came to his house and requested permission to take his son Shahid Ali to Kashmore for some work, and that he allowed his son to accompany them. However, respondent No.3 also alleges that some time ago, he had restrained two of the proposed accused, namely Bakhat Ali and Abdul Razzaque, from visiting his house due to their bad habits. If respondent No.3 had restrained these persons from visiting his house due to their bad habits, it defies common sense

that he would allow his son to accompany them on a trip to Kashmore. Moreover, respondent No.3 alleges that after about thirty to forty minutes, when he was proceeding towards Gudu for medical treatment of his wife, he heard the cries of his son near Samano Dhandh, and found his son with hard and blunt injuries on his head and neck. However, respondent No.3 has not explained how the proposed accused persons could have inflicted such serious injuries on his son within such a short span of time, and why they would do so in a public place near a road where they could be easily seen by passersby.

15. *Fifthly*, the case of *Munawar Alam Khan versus Qurban Ali Mallano* (2024 SCMR 985), is directly applicable to the facts of the present case. In the said case, the Honourable Supreme Court of Pakistan held that where an application under Section 22-A Cr.P.C is tainted with malafide and is filed as a counterblast to an earlier proceeding, the Justice of Peace is justified in dismissing the same. In the present case, while there may not be a prior FIR registered by the proposed accused against respondent No.3, the circumstances clearly indicate that the application has been filed with malafide intention. The inordinate delay of more than five months in filing the application, the contradictions between the version of respondent No.3 and the inquiry report, the corroboration of the version of the proposed accused by three independent witnesses, and the inherent improbabilities in the allegations made by respondent No.3, all lead to the irresistible conclusion that the application has been filed with malafide intention and ulterior motives. In such circumstances, the learned Justice of Peace ought to have exercised his discretion judiciously and dismissed the application filed by respondent No.3. By allowing the application and directing the registration of FIR, the learned Justice of Peace has failed to appreciate the true nature of the case and has passed an order which is contrary to the interests of justice.

16. This Court is also mindful of the observations of the Honourable Supreme Court in the case of Syed Qamber Ali Shah (*supra*) that the Justice of

Peace must not assume the role of an investigator and must not conduct a full-fledged inquiry before directing the registration of FIR. However, this principle must be balanced with the equally important principle that the Justice of Peace must not allow his forum to be used for vindictive or vexatious litigation. Where the material on record clearly establishes that the application is false, fabricated, and filed with malafide intention, the Justice of Peace has the discretion, and indeed the duty, to dismiss the application.

17. For the reasons stated hereinabove, this Criminal Miscellaneous Application is allowed. The impugned order dated 17th September, 2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Ubauro, in Criminal Miscellaneous Application No.1599 of 2025 is hereby set aside. The application filed by respondent No.3 Akhtar Ali under Sections 22-A(6)(i) and 22-B Cr.P.C stands dismissed. It is clarified that this order has been passed on the basis of the material available on record and after considering the specific facts and circumstances of the present case. This order shall not prejudice the right of respondent No.3 to approach any other forum in accordance with law if he has any legitimate grievance. However, any such proceeding shall be subject to the observations made in this order.

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