

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-515/2025

Applicant : Mst. Saima d/o Nek Muhammad, Koondhar
Through Mr. Mansoor Hussain Maitlo, Advocate

Proposed accused : 1. Pervaiz s/o Muhammad Hussain, Koondhar
2. Muhammad Hayyat s/o Bilawal, Koondhar
Through Mr. Ameer Hussain Solangi, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 20.11.2025
Date of order : 28.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— This application under Section 561-A Cr.P.C has been filed by Mst. Saima, invoking the inherent jurisdiction of this Court, challenging the order dated 5th August, 2025 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Kandiaro, in Criminal Miscellaneous Application No.2965 of 2025. That order dismissed the applicant's petition filed under Sections 22-A and 22-B Cr.P.C, wherein she sought directions to the SHO P.S Khanwahan to register an FIR.

2. The material on record reveals that on 5th April 2025, the applicant was allegedly taken forcibly by the proposed accused on false pretext from her father's residence at Village Abbas Koondhar. It is contended that she was confined and subjected to non-consensual acts over a prolonged period, culminating in purported coerced marriage. The offense alleged is grave and cognizable.

3. However, upon hearing the parties and careful scrutiny of the record, it emerges that the applicant had, prior to this application, appeared before the Additional Sessions Judge, Kandiaro, on 17th June, 2025 during proceedings under Section 491 Cr.P.C. In that solemn statement recorded under oath, the applicant did not allege any coercion, sexual assault, or confinement as now claimed. Instead, she denied contracting marriage willingly with the accused and expressed her wish to reside with her parents, thereby attesting to

the matrimonial nature of the dispute. Furthermore, the evidence shows the applicant executed an affidavit of free will and a Nikahnama dated 7th April 2025, which is corroborated by the *Talaqnama* dated 27th May 2025 issued by the accused.

4. The learned Justice of Peace has rightly observed that the matter squarely falls within the jurisdiction of the Family Court, being a matrimonial dispute. The power to direct registration of an FIR under Sections 22-A and 22-B Cr.P.C must be exercised with prudence, considering whether a cognizable offense is *prima facie* established. The mere assertion of allegations, without credible and cogent supporting material, does not warrant interference.

5. It is a settled legal principle that statements recorded before a competent court on oath carry significant evidentiary value. The applicant's earlier sworn statement, devoid of allegations of force or coercion, creates serious doubts about the veracity of the fresh claims, which appear to be an afterthought motivated by *mala fide* intent to embroil the accused in false criminal proceedings.

6. The Court also notes the maxims *actus curiae neminem gravabit* and *allegans contraria non est audiendus* are squarely applicable, precluding a party from taking inconsistent stands to gain unfair advantage.

7. In light of these considerations, no patent illegality or material irregularity is discernible in the impugned order. The learned Justice of Peace has applied judicious mind, duly balancing the facts and law, and has rendered a reasoned decision dismissing the application for FIR registration. This Court finds no valid ground to exercise its discretionary jurisdiction under Section 561-A Cr.P.C to interfere.

8. Accordingly, the present application is hereby dismissed and the impugned order dated 5th August, 2025 is maintained and upheld.

J U D G E