

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, KARACHI**

***Criminal Miscellaneous Application No. S-339 of 2024***  
*(Muhammad Shahid vs SHO PS Mithadar and another)*

***Criminal Miscellaneous Application No. S-340 of 2024***  
*(Muhammad Saqib vs SHO PS Mithadar and another)*

***Criminal Miscellaneous Application No. S-341 of 2024***  
*(Beena Siraj vs SHO PS Mithadar and another)*

***Criminal Miscellaneous Application No. S-342 of 2024***  
*(Mehak Saleem vs SHO PS Mithadar and another)*

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 Date

Order with Signature(s) of Judge(s)  
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*For Hearing of Main Case.*

**21.11.2025**

Mr. Yameen Khan, Advocate for Applicants.

Syed Farhat Hussain Naqvi, Advocate for Respondent No.3  
 /proposed accused

Ms. Amna Ansari, Additional Prosecutor General, Sindh.

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***Ali Haider 'Ada'. J:*** By this single order, I intend to dispose of all the above-captioned Criminal Miscellaneous Applications collectively, as the controversy in all matters is identical in nature. The applicants in each application have alleged that the proposed accused / respondent No.3 has committed fraud with the public at large, due to which multiple individuals have approached this Court seeking directions for recording their version in the statutory book under Section 154, Cr.P.C. It is an admitted position that earlier each applicant approached the learned Additional Sessions Judge IX- Karachi South/Ex officio Justice of Peace for similar relief, but their applications were dismissed.

2. Before the learned Justice of Peace, the applicants alleged that they had invested substantial amounts with the proposed accused in good faith, as the latter represented himself to be running a goldsmith business. It is further claimed that the applicants entrusted their amounts to the proposed accused, who thereafter misappropriated the same for his own use. When the applicants demanded profit or return of their principal investment, he allegedly avoided them and failed to fulfil his commitments. Conversely, the record reflects that the proposed accused

also filed a Criminal Miscellaneous Application before the learned Justice of Peace against the present applicants and others, taking an opposite stance. In his application, he alleged that the applicants had forcibly demanded money from him on the pretext that he had caused them losses in business. However, the material on record indicates that the proposed accused himself sustained losses in his business. Therefore, he is not in a position to claim any coercion or harassment in the manner alleged. The proposed accused also moved applications before the police authorities alleging harassment and threats from the applicants on the same ground. However, his application under Section 22-A and 22-B, Cr.P.C., also came to be dismissed by the learned Justice of Peace.

3. Learned counsel for the applicants contends that the commission of cognizable offences is clearly borne out from their applications. He submits that the applicants, in good faith, invested huge amounts in the business of the proposed accused, who thereafter committed fraud, criminal breach of trust, and intimidation by usurping their invested amounts. Learned counsel further relied upon the very application filed by the proposed accused under Section 22-A and 22-B, Cr.P.C., wherein the proposed accused himself admitted the existence of business transactions between the parties, although he attempted to expose himself as a victim. The learned Justice of Peace, however, dismissed the said application on the ground that the agreement produced by the proposed accused contained no date, no attestation, and did not disclose the commission of any cognizable offence, and further observed that the matter appeared to be of a civil nature.

4. On the other hand, learned counsel for the proposed accused / respondent No.3, Muhammad Abid, submits that no civil suit has been filed by the applicants to date, which reflects mala fide on their part. He denies that any investment was ever made by the applicants and contends that the entire allegation of business investment is fabricated. According to him, the applicants are pressurizing the proposed accused by leveling false allegations of fraud merely to extort money.

5. Learned Additional Prosecutor General submits that the documents relied upon by the applicants suffer from evident defects, including the absence of attestation and date of execution. Therefore, she supports the findings of the learned Justice of Peace, who rightly concluded that the dispute appears to be civil in nature.

6. I have heard learned counsel for the parties and have carefully perused the material available on record.

7. The scope of the powers exercised by the Justice of Peace is limited and narrow by the mandate of Sections 22-A and 22-B, Cr.P.C., which primarily relate to examining whether a cognizable offence is made out for the purpose of directing the lodging of an FIR. The Justice of Peace is not empowered to adjudicate upon the validity, enforceability, or evidentiary worth of documents placed before him. Although such documents may be perused for the purpose of appreciating the nature of allegations, any deeper scrutiny regarding their legal validity does not fall within his jurisdiction. Whether attestation is required or not, and whether the document satisfies the requirements of law, are matters governed by the Notary Public Ordinance, 1961, and such questions are to be examined by the competent forum at the appropriate stage. For ready reference, **Section 8 of the Notary Public Ordinance, 1961** is reproduced as under:

**8. Functions of notaries.**– (1) A notary may do all or any of the following acts by virtue of his office, namely:–

- (a) verify, authenticate, certify or attest the execution of any instrument;
- (b) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;
- (c) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;
- (d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;
- (e) administer oath to, or take affidavit from, any person;
- (f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;
- (g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate;
- (h) translate, and verify the translation of, any document from one language into another;
- (i) any other act which may be prescribed.

(2) No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and Official seal.

8. It is, therefore, evident that rendering any verdict regarding the validity, authenticity, or legal effect of the documents placed before the learned Justice of Peace does not fall within his domain. Such aspects are

to be determined by the competent forum vested with jurisdiction to adjudicate upon civil rights and documentary validity. It is by now well settled that, under Section 6 of the Code of Criminal Procedure, the Justice of Peace is not a Court in stricto sensu, and hence any finding similar to that of a Civil Court does not fall within the ambit of his authority. The office of the Justice of Peace is not a Court as envisaged under Section 6, Cr.P.C. and therefore he cannot assume the role of a civil adjudicator. Reliance in this regard may be placed upon the case of *Pir Abdul Qayyum Shah v. S.H.O. and 4 others* (2005 P Cr. L J 357), wherein it has been clearly held that the Justice of Peace is not a Court in the strict sense of the term.

9. Further, concerning the observation of the learned Justice of Peace that the matter appears to be of a civil nature, there is no cavil with the proposition that he may opine on such an aspect; however, such an opinion must be formed only after considering the entire material placed before him, and within the limits of his statutory jurisdiction. Under Section 22-A, Cr.P.C., it is not the function of the Justice of Peace to exhaustively or meticulously scrutinize the merits of the case, nor is he authorized to render findings that amount to adjudication. The powers of the Justice of Peace are strictly limited to aiding and assisting in the administration of the criminal justice system. He cannot assume the role of an investigating agency or a prosecutor; rather, his functions are supervisory and facilitative, meant to redress the grievances of those complainants who have been unlawfully denied their right to registration of a report by the police. Reliance in this regard is placed upon the case of *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 11), wherein the Hon'ble Supreme Court has reiterated the limited jurisdiction of the Justice of Peace.

10. Now, reverting to the applications filed by the present applicants before the learned Justice of Peace, it is apparent, prima facie, that the proposed accused himself admitted the business transactions between the parties. He has not only approached the police functionaries but also invoked the jurisdiction of the learned Justice of Peace by filing his own application. In this backdrop, the matter evidently requires investigation, as the allegations on both sides give rise to questions of fact which can only be resolved after a proper investigation by the competent investigating agency.

11. It is a settled principle that whenever the factual controversy requires investigation, the investigation chapter can only be opened in accordance with the prescribed procedure under the Police Rules, particularly Rule 24.1 of the Police Rules, 1934, or upon incorporation of the statement of the aggrieved person in the book maintained under Section 154, Cr.P.C. Once it is determined that the matter warrants investigation, the first step is to invoke the jurisdiction contemplated under Rule 24.1 of the Police Rules, 1934. For ready reference, **Rule 24.1 of the Police Rules, 1934** is reproduced as under:

*24.1. First Information how recorded.--(1) Section 154 and 155, Code of Criminal Procedure, provide that every information relating to an offence, whether cognizable or non-cognizable, shall be recorded in writing by the officer incharge of a police station.*

*The distinction between the form of reports required by the above-mentioned two section has been defined as follows by the Punjab Chief Court (now High Court),---*

*Every information covered by section 154, Criminal Procedure Code, must be reduced to writing as provided in that section and the substance thereof must be entered in the Police station daily diary, which is the book provided for the purpose. It is only information which raises a reasonable suspicion of the commission of a cognizable offence within the jurisdiction of the police officer to whom it is given, which compels action under Section 157, Criminal Procedure Code.*

*(2) With the exception of cases mentioned in rule 24.10 below, in every case in which the officer in charge of a police station, from information or otherwise, has reason to suspect the commission of an offence, which he is empowered under section 156, Criminal Procedure Code, to investigate, he shall enter in full such information or other intelligence as soon as practicable in the First Information Report Register, shall have each copy signed, marked or sealed by the informant, if present, shall seal each with the station seal, and shall dispose of the copies in accordance with rule 24.5 and if he abstains from investigation under either of the proviso to section 157 of the Code he shall submit the copy intended for the Magistrate through the Superintendent. At the same time a reference to such report shall be entered in the Station Diary, register No.II.*

*(3) All such entries shall, if possible, be made by the officer in charge himself, and, if not so possible, by the station clerk under his direction. Short lists of property stated to have been transferred by the offence may be entered in the report, as also details of any property recovered without search under section 103, Criminal Procedure Code, but detailed lists of property so transferred or recovered on search shall be entered in the first case diary submitted in the case.*

*(4) When it is necessary to question a person bringing information of the commission of an offence, special attention shall*

*be paid to the following matters and the results of the inquiries shall be clearly recorded in the first information report,---*

- (a) *The force from which the information was obtained and the circumstances under which the informant ascertained the names of the offenders and witnesses (if any are mentioned).*
- (b) *Whether the informant was an eye-witness to the offence.*

12. Now, so far as the chapter of investigation is concerned, the same is also defined and elaborated in the Police Rules, 1934. For ready reference, **Rule 25.1 of the Police Rules, 1934** is reproduced as under:

#### **CHAPTER XXV-INVESTIGATION.**

*25.1 Power to investigate. – (1) An officer in charge of a police station is empowered by section 156, Criminal Procedure Code, to investigate any cognizable offence which occurs within the limits of his jurisdiction.*

*(2) He is also empowered under section 157(1), Criminal Procedure Code, to depute a subordinate to proceed to the spot to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offenders. Any police officer may be so deputed under this section, but where a police officer under the rank of assistant sub-inspector is deputed the investigation shall invariably be taken up and completed by the officer in charge of the police station or an assistance sub-inspector at the first opportunity.*

*(3) An officer in charge of a station shall also render assistance whenever required to all officers of the Criminal Investigation Department working within his jurisdiction.*

*(4) 25.2 Power of investigating officers.-- (1) The powers and privileges of a police officer making an investigation are details in sections 160 to 175, Criminal Procedure Code.*

*(5) An officer so making an investigation shall invariably issue an order in writing in Form 25.2(1) to any person summoned to attend such investigation and shall endorse on the copy of the order retained by the person so summoned the date and time of his arrival at, and the date and time of his departure from the place to which he is summoned. The duplicate of the order shall be attached to the case diary.*

*(6) No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained.*

*(7) It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person.*

13. It is manifestly clear that the Investigating Officer plays a pivotal role in the administration of the criminal justice system. The preparation of the investigation report and its contents carries significant weight and has a direct impact on the outcome of any criminal case. A tainted or flawed investigation can therefore become a serious impediment to the proper administration of justice. Reliance in this regard is placed upon the case of *Syed Qamber Ali Shah v. Province of Sindh and others* as mentioned supra, wherein it was held that:

*“No doubt, an Investigating Officer plays a crucial role in the administration of the criminal justice system and the constituent of investigation report and its worth keeps hold of plenteous value and repercussions on the outcome of any criminal case, but tainted investigations can become an acute obstacle in the administration of justice. In the case of Sughra Bibi v. State [PLD 2018 SC 595], it was held that during the investigation, the Investigating Officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and as required by Rule 25.2(3) of the Police Rules, 1934. It is the duty of an Investigating Officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person. Whereas in the case of Babubhai v. State of Gujrat and others [(2010) 12 SCC 254], the Supreme Court of India held that investigation must be fair, transparent and judicious as it is the minimum requirement of the rule of law.”*

14. At present, concerning the grounds urged by learned counsel for the applicants, it is contended that, prima facie, a cognizable offence appears to exist in the form of cheating, criminal breach of trust, and related allegations. Learned counsel submits that once the statements of the applicants are recorded, the same may be incorporated in the prescribed format of an FIR and thereafter proceed in accordance with the mandate of the Police functionaries.

15. The most appropriate course at this stage is to leave this matter to the competent police authorities. Upon recording the statements of the applicants, the police are required to examine the facts independently and form their own opinion. From the material available on record, there appears to be no evidence of malice or mala fide intent on the part of the applicants to involve the proposed accused in criminal litigation. The allegations, at this stage, are limited to the narration of the transactions and grievances of the parties, and the assessment of whether a cognizable

offence is made out is best left to the independent and impartial investigation by the police. This approach ensures that the matter is examined in detail, with due adherence to the principles of fair investigation and without prejudice to any party.

16. Keeping in view the foregoing discussion and reasons, the instant Criminal Miscellaneous Applications are hereby allowed. The concerned Station House Officer / In-charge of the police station is directed to record the statements of the applicants. If, upon such recording, a cognizable offence is prima facie made out, the same shall be registered as an FIR and incorporated in the book maintained under Section 154, Cr.P.C.

17. The orders dated 19.03.2024, passed by the Additional Sessions Judge IX / Ex-Officio Justice of Peace, Karachi South, in Criminal Miscellaneous Applications No. 777 of 2024 (*Muhammad Shahid v. SHO P.S. Mithadar and another*), 778 of 2024 (*Muhammad Saqib v. SHO P.S. Mithadar and another*), 775 of 2024 (*Mst. Beena Siraj v. SHO P.S. Mithadar and another*), and 776 of 2024 (*Mst. Mehak Saleem v. SHO P.S. Mithadar and another*) are hereby set aside. Consequently, the instant applications filed by the applicants before the said Justice of Peace are allowed in the terms indicated above.

**JUDGE**

MUSHARRAF ALI