

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-612 of 2025

Applicant : Farrukh Mallah son of Noor Muhammad,
Through Mr. Ghulam Mujtaba Jakhar, Advocate

Respondent No.4 : Mst. Zareena Khatoon w/o Jaro Khan, Khaskheli
Through Mr. Raja Abdul Hameed Khaskheli,
Advocate

The State : *Through* Mr. Muhammad Raza Katohar, DPG

Date of hearing : 08.12.2025
Date of order : 18.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Farrukh Mallah invoked the jurisdiction of this Court under s. 561-A Cr.P.C. seeking setting aside of the impugned order dated 25.09.2025 passed by the learned Additional Sessions Judge-IV / Ex-Officio Justice of Peace, Khairpur, in Criminal Misc. Application No. 2952 of 2025, whereby directions were issued to the Station House Officer, Police Station B-Section, Khairpur, to record the statement of respondent No.4, Mst. Zareena Khatoon, and, if a cognizable offence was made out, to incorporate the same in the relevant book under section 154 Cr.P.C.

2. The brief facts necessary for the disposal of the present application are that respondent No.4, Mst. Zareena Khatoon, is a widow whose son Muhammad Nawaz was previously murdered, in respect whereof FIR No. 35 of 2023 under sections 302, 336, 201, 506, 34 PPC was registered at Police Station Site Area, Sukkur, against certain accused including Riaz Ali and Shaman Ali. It is further on record that subsequently she lodged FIR No.269 of 2024 under sections 506/2 and 34 PPC at Police Station Tando Masti Khan, alleging that said accused were extending threats to her to withdraw from the said murder case. Later, respondent No.4 filed Criminal Miscellaneous Application No. 2952 of 2025 under sections 22-A and 22-B Cr.P.C. before the learned Sessions Judge/Ex-Officio Justice of Peace, Khairpur, wherein she alleged that on 16.06.2025 at about 4:00 p.m., while she was proceeding from

her house towards Luqman city and when she reached near Jind Wado graveyard, a white coloured car bearing Registration No.BQQ-601 was found standing there; that proposed accused Riaz Ali allegedly caught hold of her arm and tried to kidnap her, whereas other proposed accused persons, including the present applicant along with co-proposed accused, allegedly manhandled her, tore her clothes, dragged her by hair and attempted to throw her into the car with intent to kidnap her, and on her resistance and cries, she was purportedly rescued by nearby pushcart vendors and other persons; that the proposed accused persons, while fleeing, allegedly extended threats of murder and kidnapping in case she did not withdraw the murder case. On the basis of these averments, she sought directions for registration of FIR against the proposed accused, including the present applicant.

3. It appears from the record that the learned Ex-Officio Justice of Peace called reports from the DSP Complaint Cell, Khairpur, as well as from the SHO concerned. The DSP Complaint Cell conducted an inquiry, during which the parties, including the present applicant and respondent No.4, were summoned and heard, and their statements were recorded. According to the said report, respondent No.4, namely Mst. Zareena Khatoon, in her own statement before the DSP Complaint Cell, categorically disclosed that the names of proposed accused No.1 and 2, including the present applicant, had been implicated by her counsel due to some misunderstanding; she further stated that she had no grievance against them and that she did not want further probe with regard to them, and she only intended to proceed against the other proposed accused, namely Riaz Ali and Shaman Ali, with whom she already had a previous dispute and against whom earlier FIRs had been lodged. The applicant and his co-proposed accused also appeared before the DSP Complaint Cell and denied the allegations; they asserted that the applicant was a government contractor of repute and that the name of the applicant was being used for purposes of pressure and blackmail. It further came on record that a prior

Criminal Miscellaneous Application No. 2548 of 2025 under sections 22-A and 22-B Cr.P.C. had been filed against the present applicant and others in respect of a government development scheme of street, road and drainage work, wherein allegations of incomplete work and alleged threats were levelled, but that application had been dismissed by the learned Addl. Sessions Judge-III/ Justice of Peace, Khairpur, vide order dated 31.07.2025, holding that no case for registration of FIR was made out and that the dispute was essentially of a contractual and civil nature.

4. Despite the above material, particularly the explicit statement of respondent No.4 before the DSP Complaint Cell exonerating the present applicant and clearly stating that she did not wish to pursue any allegation against him, the learned Ex-Officio Justice of Peace, while relying upon the general principle that information disclosing a cognizable offence should be reduced into writing under section 154 Cr.P.C, proceeded to allow Criminal Miscellaneous Application No.2952 of 2025 and mechanically directed the SHO to record the statement of respondent No.4 and, if a cognizable offence was made out, to register the FIR. The impugned order does not show any meaningful consideration of the specific police report and the complainant's subsequent statement absolving the present applicant, nor does it distinguish between those against whom she still wished to proceed and those whom she herself had exonerated.

5. Learned counsel for the applicant has argued that the impugned order, so far as it relates to the present applicant, is a clear example of non-reading and misreading of material on record. He submits that once the complainant herself stated before the competent police officer that the applicant had nothing to do with the alleged occurrence and that his name had been introduced due to misunderstanding on the part of her counsel, there remained no lawful basis for issuance of directions, directly or indirectly, tending towards registration of an FIR against him. He further argued that the earlier attempt by

the same counsel to involve the applicant in a separate Criminal Miscellaneous Application related to a development scheme had been dismissed and that the present exercise is nothing but a continuation of mala fide conduct and personal vendetta. Learned counsel contended that allowing an FIR to be registered in such circumstances would amount to using the criminal justice system as a tool of harassment and blackmail against a government contractor and a respectable person, and that section 561-A Cr.P.C has been precisely conferred upon this Court to prevent such abuse of process and to secure the ends of justice.

6. On the other hand, the learned DPG has, in view of the record, very fairly conceded that the DSP Complaint Cell report indeed reflects that respondent No.4 had withdrawn her allegations against the present applicant and had requested that no further probe be made against him. He has left the matter to the discretion of the Court with the observation that the inherent jurisdiction can be exercised to the extent necessary to protect innocent persons from being dragged into criminal litigation on account of admitted mistakes or ulterior motives.

7. The Court has carefully examined the entire record, including the application under sections 22-A and 22-B Cr.P.C., the impugned order dated 25.09.2025, the report of the DSP Complaint Cell, the statements recorded therein, and the earlier order dated 31.07.2025 passed in Cr. Misc. Appln. No.2548 of 2025. It is not in dispute that respondent No.4 appeared before the DSP Complaint Cell and, in unequivocal terms, stated that she had no complaint and no grievance against proposed accused No.1 and 2, including the present applicant, and that their names had been added by her counsel due to misunderstanding. This statement is not a minor or technical aspect; it goes to the very root of the question whether any “information” within the meaning of section 154 Cr.P.C persists against the present applicant. Where the alleged victim herself expressly withdraws and disowns the allegation against a person and admits that his name was wrongly introduced, there remains no substratum

upon which the extreme step of setting the machinery of criminal law in motion against that person can be justified.

8. The jurisdiction of an Ex-Officio Justice of Peace under sections 22-A and 22-B Cr.P.C. is indeed to examine whether the information placed before him discloses a cognizable offence and, if it does, to direct the officer in charge of the police station to record it as such. However, that jurisdiction is not to be exercised in a vacuum or in a purely mechanical manner. The Justice of Peace is required to look at the material before him at least to the extent of determining whether there is some real and subsisting accusation which, if taken at face value, would amount to a cognizable offence. Where, as here, the complainant herself, in a subsequent but authoritative statement before the police hierarchy, withdraws the allegation against a particular proposed accused and exonerates him, it is not a lawful exercise of jurisdiction to still direct, in broad terms, recording of her statement and possible registration of FIR without even noticing or dealing with that exoneration. In such circumstances, the impugned order, to the extent it affects the present applicant, suffers from non-reading of material evidence and reflects a mechanical approach which the law does not countenance.

9. There is yet another serious dimension to the matter. The record reveals that the same counsel who represents respondent No.4 had earlier initiated Cr. Misc. Appln. No.2548 of 2025 under sections 22-A and 22-B Cr.P.C. in respect of a public development scheme, wherein serious allegations were levelled against the present applicant and other officials of the Public Health Engineering Department. That application was dismissed with the clear observation that no case for registration of FIR was made out and that the appropriate remedies lay in the civil and departmental domains. The present attempt, therefore, does not emanate in isolation; it is part of a series of efforts to involve the applicant in criminal proceedings arising out of unrelated and collateral matters. When this is read together with the complainant's own

admission that she had no dispute with the applicant and that his name was introduced on the advice of her counsel, a clear picture emerges that the criminal process is in danger of being employed as an instrument of pressure and personal vendetta rather than as a vehicle for genuine redress.

10. If, despite this admitted exoneration and the DSP Complaint Cell report, the FIR were still to be registered against the applicant, the consequences for an innocent person would be severe and irreparable. A government contractor, who is required to maintain his reputation not only in society but also before public authorities and financial institutions, would at once stand stigmatized as a person accused in a heinous case involving allegations of attempted kidnapping, outraging modesty of a widow and criminal intimidation. His name would be entered into police records, he could be subjected to arrest, custodial interrogation and repeated attendance before the investigating agency and trial court. His contractual engagements with government departments could be jeopardized merely on account of his being an accused in a grave criminal case. Even if, at a later stage, the investigation were to find the FIR false or if he were to be acquitted, the damage to reputation, mental peace, professional standing and family life could not be undone. The law does not intend that a citizen, against whom the alleged victim herself disowns the accusation and attributes his nomination to misunderstanding and to the conduct of her counsel, should still be exposed to such trauma and humiliation. The safeguards provided under section 561-A Cr.P.C are meant precisely to shield innocents from the ordeal of a criminal trial where the very basis of accusation is demonstrably absent or tainted.

11. In the present case, therefore, the Court is left with no doubt that permitting the impugned order to stand, to the extent of the present applicant, would amount to an abuse of the process of the Court and of the criminal law. The ends of justice demand that the applicant should not be compelled to undergo the rigours of a criminal case which, in so far as he is concerned, has been disowned by the complainant and is unsupported by any independent material.

12. For these reasons, this Criminal Miscellaneous Application is allowed. The impugned order dated 25.09.2025 passed by the learned Additional Sessions Judge-IV/Ex-Officio Justice of Peace, Khairpur, in Criminal Misc. Application No.2952 of 2025 is set aside to the extent of the present applicant, Farrukh Mallah, and it is declared that no direction for recording of statement or registration of FIR under section 154 Cr.P.C shall operate against him on the basis of the said application. Any proceedings or steps already taken in consequence of the impugned order, in so far as they relate to the applicant, shall stand annulled. The observations made herein are confined to the case of the present applicant and shall not prejudice the merits of any proceedings, if lawfully pursued, against any other person.

J U D G E