

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Criminal Miscellaneous Application No.S- 361 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For orders on MA 5271/2025.
3. For hearing of main case.

13.11.2025.

Mr. Asif Ali Arain, Advocate for applicant.
Mr. Aijaz Ali Bhutto, Advocate for respondents No.5 and 6.
Ms. Safa Hisbani, A.P.G for State.

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Mst. Aisha, the applicant/complainant, is aggrieved by the order dated 27.05.2025 passed by the 2nd Additional Sessions Judge / Ex-Officio Justice of Peace, Hyderabad. It transpires that Mst. Aisha had filed an FIR No.64/2023 at PS Saeedabad District Matari under Sections 365, 376(ii), 337-V, 337-Ai, Fi, 34 PPC against the two accused, namely Waqar s/o Suhib Ali (her former husband) and one Farhan. After a full-dress trial, the accused were convicted of the crime vide Judgment dated 12.10.2024, and on 21.10.2024, filed Criminal Appeal No. S-132 of 2024 before this Court. While this appeal was pending, the two appellants also applied for bail, which began to come up for hearing in April and May, as reflected in the High Court's Orders dated 22.04.2025 and 30.04.2025. Thereafter, the appellants were granted bail by this Court on 29.05.2025.

2. The counsel for the applicant/complainant contended that during the hearing of the bail application, the former father-in-law, Suhib Ali (father of accused Waqar Ali), started pressurising her to withdraw from the aforesaid FIR filed against his son / former husband and/or enter into a compromise in connection with the bail application. Counsel contended that on 16.05.2025, her father-in-law, who is also a police official, snatched her mobile phone and took off with it. Counsel contended that thereafter, she blocked her SIM and

stopped using the said cellular number/cellphone. Additionally, she filed N.C. report with the nearby Cantt. Police Station, Hyderabad, but no action was taken. Thereafter, she filed a complaint with the police authorities, and when no action was taken, she moved an application u/s 22-A & B Cr.P.C. before the 2nd Additional Sessions Judge / Ex-Officio Justice of Peace, Hyderabad, seeking directions to record her Statement. However, the learned Ex-Officio Justice of Peace dismissed her application on the ground that there was a history of enmity between the applicant and the family of the proposed accused, hence no case was made out to issue directions to the police authorities under the provisions of Section 22-A & B Cr.P.C.

3. Counsel for the proposed accused/respondents has submitted that no tangible information was provided to the Ex-Officio Justice of Peace. However, he agrees that a CDR/Geo-fencing Report should be obtained in relation to the cell numbers of the applicant/complainant and the proposed accused, Suhib Ali, to ascertain the truth. Both counsel also conceded that the place of the incident on 16.05.2025, an area opposite Shabir Biryani on Risala Road, also has several CCTV Cameras, the recording of which could also be obtained.

4. Heard counsels and learned A.P.G. It is not the prerogative of the Ex-Officio Justice of Peace to go into a deep dive into the facts to ascertain whether a cognizable offence is made out. Rather, the threshold is a tentative assessment of whether there is some information that may lead to a cognizable offence. In the circumstances described hereinabove, a prima facie case is made out for issuance of directions to the concerned police authorities to record the statement of the applicant/complainant, and if a cognizable offence is made out, then to register the FIR. However, during such investigation, if the concerned I.O. reaches a conclusion that the

applicant/complainant has made a false statement, then proceedings u/s 182 PPC shall be initiated against the applicant/complainant.

5. For the sake of good order, it is clarified that none of the observations made hereinabove shall influence either party, I.O. or the trial Court.

6. Given the above, this Criminal Miscellaneous Application is allowed in the above terms.

JUDGE

Tufail