

## IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

### Criminal Misc. Application No.S-467 of 2025

Applicant : Mst. Pathani wife of Ahmed Khan Pitafi through Mr. Ayaz Ali Laghari, Advocate.

Respondents No.6 to 10 : Qurban Ali, Abdullah, Ibrahim, Mir Khaskhali and Muhammad Ashraf Khaskhali through Mr. Ghulamullah Chang, Advocate

Respondents No.11 to 13 : NEMO

Official Respondents : The Province of Sindh and others through Mr. Ghulam Murtaza Mallah, Assistant Prosecutor General, Sindh along with Inspector-Muhammad Chagal on behalf of SSP Hyderabad and ASI Masood Ali

Date of Hearing : 07.10.2025

Date of Order : 07.10.2025

### **ORDER**

**Jan Ali Junejo, J.-** Mst. Pathani, the applicant, has filed the instant Criminal Miscellaneous Application under Section 561-A Cr.P.C., seeking to set aside the order dated 09.07.2025 (hereinafter referred to as the "*Impugned Order*") passed by the learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad in Criminal Misc. Application No. 3699 of 2025 (Re: Mst. Pathani vs. SP Complaint Cell & others), whereby her application under Sections 22-A & 22-B Cr.P.C. for direction to register FIR was dismissed.

2. The case of the applicant, as set forth in the application, is that on 31.01.2025 at about 4:00 p.m., the proposed accused persons allegedly attacked her at her residence, inflicting injuries upon her and her son Ali Nawaz. It is alleged that the proposed accused were armed with various weapons, including iron rods, lathis, and a hatchet, and that they committed the offence with intention to kill. The applicant further alleged that despite several approaches to the police officials, her complaint was not entertained and FIR was not registered. She also referred to subsequent incidents on 28.06.2025 and 01.07.2025, wherein she and her

family were allegedly harassed and threatened by the same accused. Being dissatisfied with the non-registration of her FIR, the applicant filed an application before the learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, which was dismissed vide order dated 09.07.2025. The applicant, being aggrieved, has approached this Court under Section 561-A Cr.P.C. for setting aside the said order.

3. Learned counsel for the applicant contended that the learned Justice of Peace failed to appreciate that the allegations disclosed a cognizable offence, thus mandating registration of FIR under Section 154 Cr.P.C. He argued that the learned Court below erred in dismissing the application merely on the ground of delay and that the applicant continuously pursued the matter with the police and higher authorities. It was further argued that medical certificates confirmed the injuries sustained by the applicant and her son, which the learned Court below ignored. He, therefore, prayed for setting aside the impugned order and issuance of direction for registration of FIR.

4. Conversely, learned counsel for the private respondents opposed the application and submitted that the applicant had approached the Court with unclean hands and concealed material facts. He contended that the entire story was fabricated and concocted only after registration of FIR No. 209 of 2025 under Section 324 PPC at P.S Husri against the applicant's son Hussain alias Sholo, who attempted to commit the murder of the daughter of proposed accused Abdullah. It was further contended that the medical certificates relied upon by the applicant were procured subsequently to create a false defence, and the applicant's application before the learned Justice of Peace was a counterblast to the FIR registered against her son. The learned counsel for respondents submitted that the impugned order is well reasoned and based on proper appreciation of facts and law, and the same does not call for interference.

5. Learned Assistant Prosecutor General Sindh adopted the arguments advanced on behalf of the private respondents and supported the impugned order.

6. I have considered the arguments advanced by the learned counsel for the Applicant, the learned counsel for private Respondents, and the learned A.P.G. for the State, and have carefully examined the material available on record with their valuable assistance. The jurisdiction of this Court under Section 561-A, Cr.P.C. is exceptional in nature and its scope is narrowly confined. It is an inherent power, to be exercised sparingly and with circumspection, only to prevent abuse of the process of the Court or

to secure the ends of justice. It neither partakes the character of appellate nor revisional jurisdiction, as it does not authorize this Court to reappraise evidence, substitute findings, or cure every irregularity in the proceedings. Interference is justified only where the proceedings are ex facie without jurisdiction, tainted by patent illegality, or result in manifest miscarriage of justice. Importantly, Section 561-A cannot be invoked as an alternative to statutory remedies expressly provided under the Code, particularly the revisional jurisdiction contemplated under Sections 435 to 439, Cr.P.C. When the law has created a specific mechanism for correction of errors or illegalities, that course must be pursued, and inherent powers cannot be employed to bypass or supplant such procedure. To do so would not only defeat legislative intent but also impermissibly expand the ambit of Section 561-A beyond its lawful contours. Reliance is placed on the case of ***Ali Gohar and others v. Pervaiz Ahmed and others (PLD 2020 SC 427)***, wherein the Honourable Supreme Court of Pakistan was pleased to observe that: *“The remedy under Section 561-A, Cr.P.C. is not an alternate and or substitute for an express remedy as provided under the law in terms of Sections 435 to 439, Cr.P.C. and or Sections 249-A or 265-K, Cr.P.C., as the case may be”*.

7. Likewise, the jurisdiction vested in an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. is supervisory in nature and of an extraordinary character. Its essential object is to provide a safeguard against arbitrary, capricious, or mala fide inaction on the part of the police, thereby ensuring that information relating to cognizable offences is not unlawfully suppressed or stifled. In the case of ***Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)***, the Honourable Supreme Court of Pakistan was pleased to hold that: *“Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused”*.

8. From the record, it appears that the alleged incident is stated to have occurred on 31.01.2025, whereas the application for registration of FIR was filed before the learned Justice of Peace on 02.07.2025, after a delay of more than five months. There is nothing on record to show that the applicant had made any earlier effort by filing any prior application under Sections 22-A or 22-B Cr.P.C. for the same purpose before the

learned Justice of Peace or that she was prevented by sufficient cause from approaching the Court earlier. Furthermore, the police reports submitted by the SP Complaint Cell and Incharge CP Pabban, Hyderabad, reveal that the son of the applicant, Hussain alias Sholo, was himself booked in Crime No. 209/2025 under Section 324 PPC for attempting to commit the murder of the daughter of proposed accused Abdullah, and another FIR No. 220/2025 under the Arms Act was also registered against him for possession of the weapon used in the crime. It appears that the present proceedings were initiated by the applicant only after the registration of said FIRs, apparently as a counterblast to pressurize the complainant party. It further appears that the injuries shown in the medical certificates relied upon by the applicant include only one injury on her person described as Jurh Ghayr Jaifah Damiyah, which is non-cognizable under Section 337-F(1) PPC. The learned Justice of Peace has correctly observed that such injury does not require registration of FIR, and the applicant has the alternative remedy of filing a direct complaint before the competent Magistrate under Chapter XVI of the Cr.P.C.

9. If an Ex-Officio Justice of Peace were to direct the police, in applications under Section 22-A, Cr.P.C., to register cases in respect of non-cognizable offences, it would defeat the very object and spirit of the law and would inevitably amount to harassment of the proposed accused. It is a well-settled principle that the Ex-Officio Justice of Peace exercises a limited and supervisory jurisdiction, confined to ensuring that information relating to a *cognizable offence* is not unlawfully suppressed by the police. The said jurisdiction is administrative in nature and not adjudicatory; hence, the Ex-Officio Justice of Peace cannot embark upon a roving inquiry, assess the credibility of evidence, or determine the truthfulness of allegations at the pre-registration stage. Where prima facie material discloses commission of a cognizable offence, the Justice of Peace may direct the police to register an FIR. Conversely, where the allegations do not disclose a cognizable offence, the statutory remedy lies under Section 155, Cr.P.C., which requires such information to be entered in the station diary and referred to the Magistrate concerned. The learned Justice of Peace has also rightly observed that the application contained inconsistent statements regarding dates of incidents (31.01.2025, 28.06.2025, and 01.07.2025), lacked details of any independent witnesses, and that no plausible explanation was offered for the inordinate delay in seeking registration of FIR. It is well-settled that the directions for registration of FIR under Section 22-A & 22-B Cr.P.C. cannot be issued mechanically or in a routine manner. In view of the above factual and legal position, I am of the considered view that the impugned order dated

09.07.2025 passed by the learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad, is well reasoned, based upon proper appreciation of facts and evidence, and does not suffer from any illegality, irregularity, or infirmity warranting interference by this Court in exercise of its inherent jurisdiction under Section 561-A Cr.P.C.

10. For the reasons stated hereinabove, the Criminal Miscellaneous Application No. S-467 of 2025 filed by the Applicant stands dismissed. However, the Applicant shall be at liberty, if so advised, to avail an appropriate legal remedy by filing a direct complaint before the competent Magistrate in accordance with law. These are the detailed reasons for the short order announced on 07.10.2025.

**JUDGE**