

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-219 of 2025

(Khushal Bozdar Vs. Mst. Wazeeran & others)

Date	Order with signature of Judge
------	-------------------------------

- 1. For Orders on MA No. 1842/2025 (U/ A)
- 2. For Orders on Office objection.
- 3. For Orders on MA No. 1843/2025 (Ex./ A).
- 3. For hearing of main case.
- 4. For Orders on MA No. 1844/2025 (Stay)

ORDER.

10-04-2025.

Mr. Mujeeb-ur-Rehman Laghari Advocate for the applicant.

Ali Haider 'Ada',J:- The Respondent No.01 filed an application under Sections 22-A and 22-B Cr.P.C before the Learned Sessions Judge/ Ex-Officio Justice of Peace, Ghotki, which was subsequently entrusted to the Learned Additional Sessions Judge/Ex-Officio Justice of Peace, Daharki. In the said application, Respondent No.01, Mst Waziran stated that the present applicant along with other accused persons armed with pistols, lathis and iron rod, trespassed into her house where she was present with her witnesses. It is further stated that the accused, on the instigation of one another, extended threats of dire consequences over a prior dispute regarding the return of household articles. During the incident, the Mst Waziran sustained injuries on the backside of her head, purportedly caused by an iron rod. Moreover, it is stated that the accused dragged her outside the house, resulting in the tearing of her clothes. The accused also inflicted injuries upon other family members/witnesses and before fleeing the scene, committed robbery by taking away cash from the house. Thereafter, she approached the concerned SHO and obtained a letter for medical treatment. Following her treatment, she attempted to appear for recording of her statement but was unsuccessful. Consequently, she filed an application under Sections 22-A and 22-B Cr.P.C and succeeded in obtaining the order.

2. The applicant, being aggrieved by the impugned order, assails the same by preferring the instant Criminal Miscellaneous Application.

3. Learned counsel for the applicant, under the cover of statement, filed the detailed impugned order which was previously not annexed with the instant application. He submits that no such incident took place and the injuries claimed are self-inflicted. He further argues that the learned Justice of Peace passed the impugned order without properly ascertaining the facts, as the entire story is baseless. Therefore, the impugned order is liable to be set aside.

4. Heard arguments and perused the material available on record.

5. In order to review the material, it is pertinent to first examine the application under Sections 22-A and 22-B Cr.P.C, serious allegations have been leveled against the applicant party, including specific claims of sustained injuries, which are also supported by the police report submitted before the learned Justice of Peace. At this stage, the nature of the injuries must be assessed in conjunction with the other set of accusations. According to the version of respondent in her application, not only did the accused trespass into her house, but her clothes were also torn and an act of robbery was allegedly committed. Reliance is place on the case of Syed Qambeer Ali Shah Vs Province of Sindh and others (2024 SCMR 1123).

11. In the case of Muhammad Bashir v. Station House Officer, Okara Cantt. (PLD 2007 SC 539), this Court held that no authority vested with an Officer Incharge of a Police Station or with anyone else to refuse to record an FIR where the information conveyed disclosed the commission of a cognizable offence. No authority vested with an Officer Incharge of a Police Station or with anyone else to hold any inquiry into the correctness or otherwise of the information which was conveyed to the S.H.O. for the purposes of recording of an FIR. Check against lodging of false FIRs was not refusal to record such FIRs but punishment of such informants under section 182, P.P.C. etc., which should be, if enforced, a deterrent against the misuse of the provisions of section 154, Cr.P.C. While in the case of Brig. (Retd.) Imtiaz Ahmad v. Government of Pakistan [1994 SCMR 2142], this Court held that the starting point of the examination of the legal questions canvassed by the petitioner's counsel must be the important fact that the stage at which the petitioner thought it proper to invoke the High Court's jurisdiction under Article 199 of the Constitution was the stage of registration of criminal cases against him. The effect of the registration of a case is to set in motion an investigation by the police in accordance with law. The Court also referred to the case of Norwest Holst Ltd. v. Department of Trade and others [(1978) 3 All ER 280 at 290], which laid down that "In every

investigation ... there are...by and large three different phases. First of all, the administrative phase; next, the judicial phase; and, finally, the executive phase when the orders of the Court or the Tribunal are, if necessary, executed or promulgated. Quite plainly fairness to the suspect... demands that he should be given a chance of stating his case before the final period: the execution... Equally fairness demands that the suspect shall be given a chance of putting his side of the case before the judicial inquiry is over ... But on the other side, and the other side are entitled to fairness just as the suspect is, fairness to the inquirer demands that during the administrative period he should be able to investigate without having at every stage to inquire from the suspect what his side of the matter may be. Of course, it may be difficult to find out the particular point at which the administrative phase ends and the judicial phase begins". The judgment also quoted a passage from Lord Reid's speech in *Wiseman v. Borneman* [(1971) AC 297, at 308)], that "Every public officer who has to decide whether to prosecute or raise proceedings ought first to decide whether there is a *prima facie* case, but no one supposes that justice requires that he should first seek the comments of the accused or the defendant on the material before him. So, there is nothing inherently unjust in reaching such a decision in the absence of the other party." Whereas in the case of *Younas Abbas v. Additional Sessions Judge, Chakwal* [PLD 2016 Supreme Court 581], a five-member bench of this Court held that the functions performed by the Justice of Peace being quasi-judicial in nature cannot be termed as executive, administrative or ministerial; that such functions being complementary to those of the police do not amount to interference in the investigative domain of the latter and thus cannot be held to be violative of the judgments of this Court rendered in the cases of *Muhammad Bashir v. Station House Officer, Okara Cantt.* (supra) and *Brig. (Retd.) Imtiaz Ahmad v. Government of Pakistan* (supra).

12. As a result of the above discussion this Criminal Petition is converted into an appeal and is allowed. As a consequence thereof, the impugned order passed by the High Court on 01.06.2018 is set aside as far as it relates to the order passed by the Justice of Peace/Ind Additional and District and Sessions Judge, Ghotki, on 06.10.2015 in Cr. Misc. Application No. 1290/2015 with the directions to the S.H.O., Police Station 'A' Section, Ghotki, to implement the abovementioned order of the Justice of Peace and act strictly in accordance with law.

6. The registration of an FIR is not merely a procedural formality, but a statutory and fundamental right recognized under Section 154 Cr.P.C. The concept of ***Primus Relatus de Crimine***, means the first account of a crime serves as the basic for initiating the criminal justice process.

7. It is the prime obligation of the Ex-Officio Justice of Peace to meticulously examine all relevant documents and after applying a prudent and judicious mind, issue necessary direction to the relevant

authorities who have neglected to discharge their statutory responsibilities.

8. As the available record is sufficient for at surface level analysis that, no legal infirmity is found in the impugned order. Given the circumstances, the order passed by the Justice of Peace reflects no legal flaw. As such, this Criminal Miscellaneous Application and the accompanying requests are dismissed at the threshold.

J U D G E