

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**  
Criminal Miscellaneous Application No.S-90 of 2025

Applicant: Rehan Sarwar s/o Muhammad Sarwar Arain  
Through Mr. Abdul Hafeez Mari advocate.

Respondents: 1. S.SP, Mirpurkhas.  
2. D.S.P Digri.  
3. SHO P.S Digri  
Through Mr. Neel Parkash, DPG.

Proposed accused: 1. Saleem Kumbhar (SHO P.S Digri).  
2. Imran Kapri (ASI PS Digri).  
3. Rashid Jat (WPC PS Digri)  
4. Shahid (PC PS Digri)  
5. Akhter Jarwar (PC PS Digri)  
6. Ragha Meghwar (PC PS Digri)  
7. Hafeez ur Rehman s/o Muhammad Ismail.  
8. Faqero s/o Jakhro Meghwar.  
9. Ajesh s/o Faqero.  
10. Muhibulah s/o Musadiq Iqbal.  
11. Balo s/o Hafeez ur Rehman s/o Muhammad Ishaque.  
12. Noor ul Kashif s/o Habib.  
12. Aslam s/o Ishaque.  
14. Master Munawar s/o Master Nazeer Ahmed.  
15. Three unknown accused.  
Through Mr. Ghulam Abbas Sangi, advocate.

Date of hearing: 11.07.2025.

Date of Order: 11.07.2025.

**ORDER**

**Jan Ali Junejo, J.** – Through this Criminal Miscellaneous Application filed under Section 561-A Cr.P.C, the applicant Rehan Sarwar seeks to invoke the inherent jurisdiction of this Court for setting aside the order dated 23.04.2025 (hereinafter referred to as the “Impugned Order”), passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Mirpurkhas in Criminal Miscellaneous Application No. 599/2025, whereby the application filed by the applicant under Section 22-A & B Cr.P.C. seeking direction for registration of FIR was dismissed.

2. The applicant alleges that on 09.01.2025, the proposed accused forcibly entered his residence, subjected him to physical assault, committed aerial firing,

terrorized the vicinity, robbed cash amounting to Rs. 23,40,000/-, gold ornaments weighing approximately 4½ tolas, valuable property documents, and a motorcycle. Further, it is alleged that the proposed accused occupied the applicant's house and subsequently extorted Rs. 10,00,000/- under coercion to vacate the premises. The applicant claims that despite several complaints to law enforcement agencies and senior police officials, no FIR was registered. The learned Additional Sessions Judge-II, Mirpurkhas dismissed the applicant's request by holding that the application was filed belatedly and appeared to be a counterblast to the earlier registered FIR No. 02/2025, lodged by the proposed accused against the applicant.

3. the learned counsel for the applicant, reiterated the contentions made before the learned Ex-Officio Justice of Peace. He argued that the learned Ex-Officio Justice of Peace failed to appreciate the heinous nature of the alleged crime and did not properly consider the facts of the application, particularly that a cognizable offense was made out. He emphasized that all ingredients for a cognizable offense were present. He further contended that the learned Ex-Officio Justice of peace overlooked the available video evidence showing the proposed accused committing the alleged offense and the robbery of a huge amount. The learned counsel stressed that an order for lodgment of an FIR is merely a step towards fair investigation and trial, not a punishment, and thus, upon a prima facie case, such a right should be granted. He also argued that the impugned order was not a speaking order and was not in accordance with the object and contents of the application, rendering it illegal and unsustainable. Lastly, the learned counsel prayed for allowing the present Criminal Misc. Application.

4. The learned DPG for the State and learned counsel for the proposed accused, supported the impugned order of the learned Ex-Officio Justice of peace. They submitted that the detailed reasoning provided by the learned Ex-Officio Justice of peace was sound and in accordance with the law. They

reiterated that the belated filing of the application, particularly after the registration of FIR No. 02/2025 against the applicant, strongly suggested a counterblast. They emphasized that a proper inquiry had already been conducted by the police into the applicant's complaint, and its findings supported the complainant in the existing FIR. They also highlighted the potential for misuse of Section 22-A & B CrPC and the necessity for courts to exercise caution and apply their minds diligently before issuing directions for FIR registration. Lastly, the learned counsel for the proposed accused and learned DPG prayed for dismissal of the present Criminal Misc. Application.

5. This Court has carefully perused the memo of the Criminal Miscellaneous Application, the impugned order of the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Mirpurkhas, the annexures thereto, and has considered the detailed arguments advanced by the learned counsel for the parties. The core issue before this Court is whether the learned Ex-Officio Justice of Peace erred in dismissing the applicant's application under Sections 22-A & B CrPC for the registration of an FIR, thereby necessitating intervention under Section 561-A CrPC. It is a well-settled principle of law that the extraordinary powers under Section 561-A CrPC are to be exercised sparingly and with caution, primarily to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is not a substitute for an appeal or revision where alternative efficacious remedies are available. The learned Ex-Officio Justice of Peace, in his comprehensive order, has meticulously addressed the various facets of the applicant's grievance. The most significant factor that weighs against the applicant's plea is the existence of FIR No. 02/2025, dated 10.01.2025, already registered against the present applicant by one of the proposed accused concerning the very same incident of 09.01.2025. The applicant's current application seeking registration of an FIR for the same incident, filed more than three months later on 18.04.2025, strongly suggests a retaliatory motive or a 'counterblast', a phenomenon that

has been frequently discouraged by superior courts. While the applicant claims to have approached authorities earlier, the delay in initiating formal proceedings under Section 22-A & B CrPC before the Justice of Peace, especially when an FIR already stands against him for the same occurrence, cannot be overlooked. Furthermore, the police report and the stance of the SHO Police Station Digri, as noted by the learned Ex-Officio Justice of Peace, indicate that an inquiry was conducted into the applicant's complaint to the DIG Mirpurkhas, and the findings supported the version of the complainant in FIR No. 02/2025. This suggests that the police have already applied their mind to the incident and the competing claims. The mere presence of police officials in a video, as explained by the SHO, for maintaining law and order in the aftermath of a violent incident, does not automatically substantiate the applicant's entire narrative or warrant the immediate registration of a separate FIR, particularly when the house shown is disputed. Directing the registration of an FIR under Section 22-A & B CrPC is a significant judicial power that must be exercised judiciously, ensuring that the applicant has approached the court with clean hands and that the application is not motivated by malice or intended to harass public officials discharging their duties. In the present circumstances, where a conflicting FIR exists and a police inquiry has already taken place. It is imperative to note that the dismissal of an application for the registration of an FIR does not leave the applicant without a remedy. The learned Ex-Officio Justice of Peace has rightly granted liberty to the applicant to file a direct complaint before the competent court of law if he genuinely believes that a cognizable offense has been committed and that the police have failed to register the FIR. This alternative remedy under Section 200 CrPC provides an ample opportunity for the applicant to present his evidence before a Magistrate, who can then proceed to take cognizance of the matter if a prima facie case is established. This ensures that genuine grievances are addressed while preventing the abuse of the process for ulterior motives. The reliance on various case laws by the learned counsel for the applicant was duly considered by the learned Ex-Officio Justice of Peace,

who found them inapplicable to the specific facts and circumstances of the present case, a finding with which this Court concurs, given the peculiar factual matrix involving a pre-existing FIR and the delay. Courts should not entertain applications under Sections 22-A and B, Cr.P.C. in a mechanical or perfunctory manner. It is incumbent upon the Court to apply its judicial mind to determine whether the applicant has approached with clean hands or whether the application is tainted with malice or an ulterior motive. Unless such scrutiny is exercised, the practice may have serious implications for police officials who, while discharging their lawful duties, could be unfairly targeted or discouraged. The law must be interpreted and applied in a manner that ensures its protection is extended fairly and uniformly to all, including law enforcement personnel acting within the bounds of their authority. Reliance in this regard is placed on the case of ***Imtiaz Ahmed Cheema, S.H.O. v. S.H.O., Police Station Dharki, Ghotki and 2 others (2010 YLR 189)***, wherein it was held by this Court that:

*“The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice is discharged, it would have far reaching effect on the public officials who in discharge of duties take actions against them. The law has to be interpreted in a manner that its protection extends to everyone”.* In similar circumstances, the Honourable Supreme Court of Pakistan, in the case of ***Munawar Alam Khan v. Qurban Ali Mallano and others (2024 SCMR 985)***, held 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. It is a settled principle of law that each and every case is to be decided on its own peculiar*

*facts and circumstances and inference in this regard can be drawn from the cases reported as Rai Ashraf and others v. Muhammad Saleem Bhatti and others (PLD 2010 SC 691), Trustees of the Port of Karachi v. Muhammad Saleem (1994 SCMR 2213) and The State v. Mushtaq Ahmed (PLD 1973 SC 418)”.*

6. In light of the foregoing, this Court finds no infirmity, illegality, or impropriety in the impugned order passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Mirpurkhas. The order is well-reasoned, speaking, and based on a sound appreciation of the facts and the applicable legal principles. The dismissal of the application does not amount to a miscarriage of justice, as an effective alternative remedy is available to the applicant.

7. For the reasons stated above, this Criminal Miscellaneous Application lacks merit. The learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Mirpurkhas, was justified in dismissing the applicant's application under Sections 22-A & B CrPC. Accordingly, this Criminal Miscellaneous Application No. 90 of 2025 is hereby **DISMISSED**. These are the reasons of my short order dated 11-07-2025.

**JUDGE**

*\*Saleem\**

