

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

*Criminal Misc.Appln.No.S-416 of 2025
(Tarique Hussain & others Vs. Zahid Ali & others)*

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

- 01. For orders on office objection "A"
- 02. For hearing of main case.
- 03. For hearing of M.A.No.5310/2025.

22.06.2026

Mr. Habibullah G.Ghouri, Advocate for the Applicants.

Mr. Muthar Abbas Solangi, Advocate for Respondent No.1.

Mr. Nazir Ahmed Bangwar, Deputy Prosecutor General.

* = * = * = * = * = * = * = * = *

Ali Haider 'Ada', J:- Through the instant Criminal Miscellaneous Application, the applicants have assailed the order dated 14.11.2025 passed by the learned Additional Sessions Judge-II/Ex-officio Justice of Peace, Mehar, in Criminal Miscellaneous Application No.2706 of 2025, filed by Respondent No.1 under Sections 22-A and 22-B, Cr.P.C.

2. Briefly stated, Respondent No.1 alleged before the learned Justice of Peace that the present applicants, being police officials, had forcibly taken him and his companions from a private place, subjected them to unlawful treatment, caused firearm injuries to his right leg near the knee and thereafter released them. It was further alleged that the police officials subsequently registered FIR No.383 of 2025 under Sections 324, 353 and 398, P.P.C. as well as FIR No.384 of 2025 under Section 23(i)(a) of the Sindh Arms Act, 2013, at Police Station Mehar. According to Respondent No.1, the said

criminal cases were false and fabricated, and the acts attributed to the police officials constituted offences; therefore, his matter be reported.

3. Upon hearing the parties, the learned Justice of Peace called for a report and ultimately directed the Director, Federal Investigation Agency (F.I.A.), Hyderabad, to entertain the complaint and proceed in accordance with law. The learned Justice of Peace was of the view that the allegations attracted the provisions of the Torture and Custodial Death (Prevention and Punishment) Act, 2022 and, therefore, fell within the investigative domain of the F.I.A. Being aggrieved by such direction, the present applicants have challenged the impugned order through this application.

4. Learned counsel for the applicants contended that the learned Justice of Peace travelled beyond the scope of powers conferred under Sections 22-A and 22-B, Cr.P.C. He argued that irrespective of the merits of the allegations, the Torture and Custodial Death (Prevention and Punishment) Act, 2022 provides a complete mechanism for initiation and adjudication of complaints under the said enactment. According to learned counsel, Section 6 of the Act provides a specific procedure and forum; therefore, the learned Justice of Peace had no jurisdiction to direct the F.I.A. to entertain or investigate the matter. He further submitted that where a special law provides a particular procedure, the same must be followed strictly. Learned counsel also referred to the principles laid down in *Sughra Bibi v. The State* (PLD 2018 SC 595) and argued that disputed versions are to be examined by the investigating agency in accordance with law and not by the learned Justice of Peace while exercising jurisdiction under

Section 22-A, Cr.P.C. He, therefore, prayed for setting aside the impugned order.

5. On the other hand, learned counsel for Respondent No.1 supported the impugned order and argued that the allegations disclose commission of offences under the Torture and Custodial Death (Prevention and Punishment) Act, 2022. He submitted that the learned Justice of Peace was competent to issue directions to ensure that the matter was examined by the competent authority. During the course of arguments, however, learned counsel fairly conceded that the Act itself provides a mechanism for initiating proceedings and for seeking redress before the competent forum constituted thereunder.

6. Learned Deputy Prosecutor General submitted that where a special statute provides a complete mechanism for investigation and trial, the same must be adhered to strictly. According to him, the Torture and Custodial Death (Prevention and Punishment) Act, 2022 is a special law and prevails over the general provisions of the Code of Criminal Procedure. He argued that when the law prescribes a specific procedure for redressal of grievances, such procedure cannot be bypassed by invoking a jurisdiction not contemplated by the statute. He, therefore, did not support the impugned order.

7. Heard and examined the available record.

8. Before touching upon the merits of the allegations levelled by Respondent No.1, it is necessary to examine whether the learned Justice of Peace possessed the jurisdiction to pass the impugned order. A careful perusal of the impugned order shows that the learned Justice of Peace

directly referred the matter to the Federal Investigation Agency for inquiry and necessary action. However, the record does not show that any complaint, either oral or written, had been submitted before the F.I.A. by Respondent No.1. In the absence of such complaint, the question arises as to under what provision of law the learned Justice of Peace could directly transfer the matter to the F.I.A. for investigation, once there was no complaint on record.

9. The Torture and Custodial Death (Prevention and Punishment) Act, 2022 is a special enactment. Section 2(a) thereof defines the "Agency" as the Federal Investigation Agency, whereas Section 2(c) defines a "complaint" as one made orally or in writing before the Agency. Furthermore, Section 6 of the Act provides a specific mechanism through which an aggrieved person may seek redress before the competent Court constituted under the Act. Thus, the statute itself provides a complete procedure for initiation of proceedings and adjudication of grievances arising thereunder.

10. In the present case, the learned Justice of Peace appears to have overlooked the statutory mechanism provided under the special law and instead assumed a jurisdiction not contemplated by the Act. Where a special statute creates rights and liabilities and also prescribes a procedure for enforcement of those rights, the prescribed procedure must ordinarily be followed. The Honourable Supreme Court of Pakistan in ***Munawar Alam v. Qurban Ali Malano and others (2024 SCMR 985)*** has emphasized that applications under Section 22-A, Cr.P.C. are to be decided judiciously and not mechanically. Similarly, it is a settled

principle of law that where legislation prescribes a particular method for doing an act, the same must be done in that manner alone and not otherwise. Reference be made in case ***Jeehand vs The state 2025 SCMR 923***.

11. It is also well settled that the Ex-officio Justice of Peace, before issuing a direction under Section 22-A(6)(i), Cr.P.C., must satisfy himself that the aggrieved person had first approached the concerned Station House Officer and thereafter the higher police authorities, but despite such efforts no lawful action was taken. In this regard, guidance may be sought from ***Younas Abbas v. Additional Sessions Judge, Chakwal (PLD 2016 SC 581)***.

12. In the instant matter, no material has been placed on record to show that Respondent No.1 approached the competent authority under the Torture and Custodial Death (Prevention and Punishment) Act, 2022 or lodged any complaint before the Agency as contemplated by the statute. In such circumstances, the direction issued by the learned Justice of Peace to the F.I.A. was not supported by the scheme of the law and, therefore, cannot be sustained.

13. For the foregoing reasons, the impugned order dated 14.11.2025 passed by the learned Additional Sessions Judge-II/Ex-officio Justice of Peace, Mehar, calls for interference. Consequently, the instant Criminal Miscellaneous Application is allowed and the impugned order is hereby set aside. Needless to observe that this Court has not expressed any opinion regarding the truth or falsity of the allegations levelled by Respondent No.1. He shall remain at liberty to avail any remedy available to him under the relevant law before the competent forum. Any observations made herein are

confined to the disposal of the present application and shall not prejudice the rights of either party before any competent authority or Court.

JUDGE

.