

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD**

Criminal Miscellaneous Application No.S-65 of 2023

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of MA No.861 / 2023.

28.04.2023.

Syed Shafique Ahmed Shah, advocate for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Mr. Tanveer Ahmed Daudani, advocate for private respondents.

Learned counsel for the applicant submits that application under section 22-A (6) (ii) Cr.P.C. was filed by the respondents Arbab Ali and Hajan for transfer of investigation and report was called from SSP Complaint Cell by the learned Incharge Additional Sessions Judge, Hala. He further submits that provision of section 22-A (6) (ii) Cr.P.C. provides that only the powers of Ex-Officio Justice of Peace are to transfer investigation from one police officer to another but in the instant case learned Justice of Peace directed DIGP to assign the investigation of Crime No.69 / 2022 under section 302, 109, 34 PPC to any other police officer with direction to him to reinvestigate impartially and submit fresh report under section 173 Cr.P.C. He further submits that Ex-Officio Justice of Peace has no power to pass such like order.

2. When the above legal position confronted with the learned counsel for respondents No.5 & 6, he admits that only the power of Ex-Officio, Justice of Peace is to transfer investigation from one police officer to another. Learned A.P.G. Sindh submits that this order may be set-aside with direction to learned trial Court to decide the application afresh after hearing the parties in accordance with law.

3. Heard and perused the record. As per section 22-A (6) (ii) Cr.P.C. learned Ex-Officio Justice of Peace is only empowered to transfer the investigation from one police officer to another; however, through the impugned order, the learned Ex-Officio Justice of Peace has directed DIGP to assign the investigation of Crime No.69 / 2022 under section 302, 109, 34 PPC to any other police officer with further direction to him to reinvestigate impartially and submit fresh report under section 173 Cr.P.C, which is beyond the scope as enunciated under section 22-A (6) (ii) Cr.P.C. Learned counsel for the applicant has rightly pointed out this legal scheme. In view of the above facts and circumstances, the impugned order is set-aside with direction to Ex-Officio, Justice of Peace/trial Court to decide the subject application afresh after hearing the parties strictly in accordance with law. The subject application is deemed to be pending before the learned Court.

4. Instant criminal miscellaneous application stands disposed along with listed application in above terms.

JUDGE