

# IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Misc. Application No.S-486 of 2024  
(*Sht. Warju Vs. S.S.P SSP Complaint Cell and others*)

---

**DATE      ORDER WITH SIGNATURE OF JUDGE**

---

Date of hearing and order 24.09.2024

Mr. Ghulamullah Chang, advocate for the applicant.

Mr. Heman Das, advocate a/wo respondents Maghan and Kanji.

Mr. Dhani Bakhsh Mari, Assistant P.G a/w SIP Hussain Bux of P.S Jhuddo and ASI Nabi Bux of P.S Naukot.

=

## ORDER

*Adnan-ul-Karim Memon, J.* This Criminal Miscellaneous Application is filed against a court order dated July 13, 2024, issued by the Additional Sessions Judge-I/Ex-Officio Justice of Peace Mirpurkhas under sections 22-A(a) & (b) of the Criminal Procedure Code (Cr. P.C), whereby the application of the applicant, seeking registration of FIR was dismissed. An excerpt of the order is reproduced:-

“After hearing both parties and carefully scanning the available record including the police reports, it transpires that the learned advocate for the applicant has reiterated the content of the instant applicant and the learned advocate for the proposed accused has denied all the allegations leveled against the proposed accused by the applicant and submitted one photocopy of police report dated 15.06.2024 submitted by SHO PS Jhudo in respect of application U/S 22 A Cr.P.C, moved by the present proposed accused Maghan S/o Dajo against the present applicant’s father in which SHO PS Jhudo had reported that father of applicant had told him that applicant Shrimati Warju was given in marriage to present proposed accused one month back and present proposed accused subsequently had left her with his sister in law Shaloo.

Therefore, the instant application, in view of the police report dated 15.06.2024 submitted by SHO PS Jhudo in respect of application U/S 22 A Cr.P.C, moved by the present proposed accused Maghan S/o Dajo against the present applicant’s father; apparently not filed with clean hands and hence it is hereby dismissed.”

2. The applicant's counsel argues that the application was dismissed unfairly because it was based solely on a police report, which is not a valid legal basis for dismissal. Learned counsel argued that respondent Maghan had filed Criminal Miscellaneous Application No.445 of 2024 under section 561-A Cr.P.C, before this court calling into the question order dated 15.06.2024 passed by the learned Additional Sessions Judge-I/Ex-

Officio Justice of Peace, Mirpurkhas in Criminal Miscellaneous Application No.830/2024, whereby his application for registration of the F.I.R was declined on the premise that police report suggested that there was a matrimonial dispute between the parties and learned counsel sought disposal of the application in terms that he will avail the remedy before the concerned Magistrate U/S 200 Cr.P.C. learned counsel added that the private respondents committed a serious crime of rape with the applicant which needs to be registered under section 154 Cr. P.C book.

3. The private respondents' counsel argues that the private respondents did not commit any crime and that the applicant wants to occupy the government or enemy land. Learned counsel supported the impugned order and prayed for dismissal of the Criminal Miscellaneous Application and the applicant may be set at liberty to avail the remedy before the concerned Magistrate U/S 200 Cr.P.C.

4. SIP Hussain Bux of P.S Jhuddo submits that respondent Maghan claimed that applicant Shrimati Warju, was given in marriage to him, but she had subsequently left with her sister-in-law, Shaloo, and both parties are at loggerheads and are indulged in litigation.

5. I have heard the learned counsel for the parties and perused the record with their assistance.

6. The cases of *Syed Zafar Ali Shah (2005 MLD 1593)* and *Younas Abbas (PLD 2016 SC 581)* emphasize the importance of judicial oversight and the need to avoid unnecessary interference in lower court decisions. In the case reported as *Jamal Khan vs. Secretary Home Department (2021 SCMR 468)*, the Supreme Court, in a matter involving a civil dispute to be resolved by the concerned court, refused to interfere in the findings whereby registration of a criminal case was declined. In the present case, the perusal of the record reflects that after filing an Application under sections 22-A and 22-B, Cr.P.C. before learned Ex-Officio Justice of Peace, the report was called from the concerned SHO who reported against the applicant. The decision mentions that the allegations were examined and compared with the existing evidence.

7. That invoking the jurisdiction of this court under Section 561-A of the Criminal Procedure Code (Cr. PC) is not desirable in law when other

remedies are available. The powers under Section 561-A should be used sparingly and only in exceptional cases. Three conditions must be met to invoke these powers. It must be more than a minor inconvenience or error. There should be no doubt about the nature of the injustice. The aggrieved party must have exhausted all other legal options.

8. In view of what has been discussed herein above, I am of the view that instant application is misconceived, therefore, the order dated July 13, 2024 does not require any interference by this Court. Consequently, the instant Criminal Miscellaneous Application is disposed of by leaving the applicant to avail the remedy before the concerned Magistrate U/S 200 Cr.P.C., if filed the same shall be decided on me rits within reasonable time.

**JUDGE**

*"Ali Sher"*