

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Misc. Application No.80 of 2022

Applicant : Amin Siddique son of Siddique Parekh  
through Mr. Muhammad Altaf, Advocate

Respondent No.2. : None present.

Respondents : The State  
Mr. Fayyaz Hussain Saabki, APG.

Date of hearing : 25.03.2025

Date of order : 25.03.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J** – The applicant, Ameen Siddique, has filed the present Criminal Miscellaneous Application to challenge the order dated 02.02.2022, passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Karachi East in Criminal Miscellaneous Application No.313 of 2022. The impugned order directs the registration of an FIR against the applicant and two others, contingent upon the complainant's statement disclosing the commission of a cognizable offence.

2. Respondent No.2, in his application filed under Sections 22-A & B Cr.P.C, asserted that he was the owner of a house located in Memon Cooperative Housing Society Limited, which had been rented out to Maaz Muhammad. On 01.01.2020, officials from Police Station Ferozabad allegedly arrived at the said house and took the tenant into custody. Upon approaching the concerned SHO, Respondent No.2 was informed that the Additional Inspector General of Police, Mr. Ameer Ahmed Shaikh, intended to evict the tenant from the premises and the police were acting under those instructions. It was further claimed that an undertaking was forcibly obtained from the tenant. Despite repeated objections and requests to halt the alleged unlawful interference, no remedial action was taken, prompting Respondent No.2 to seek directives from the SHO and later from the Ex-Officio Justice of Peace for registration of an FIR.

3. Learned counsel for the applicant argued that the assertions made in Respondent No.2's application did not amount to a cognizable offence. He contended that the tenant had been using the residential premises for commercial purposes, and was merely summoned to the police station

and advised to desist from engaging in illegal activities. He further maintained that no threats were made by the applicant or the police, and that the applicant had no intention of interfering with the tenancy, which could be continued at the tenant's own discretion. Accordingly, he prayed for the impugned order to be set aside.

4. Learned counsel for Respondent No.2 preferred to remain absent without intimation. The learned Additional Prosecutor General concurred with the applicant's stance, stating that the dispute appeared to be civil in nature and did not disclose any cognizable offence.

5. It is a well-recognized principle of law that the jurisdiction conferred under Section 22-A Cr.P.C serves to protect the rights of aggrieved individuals by providing a legal avenue in situations where law enforcement authorities have failed to register a cognizable offence. Nevertheless, the exercise of such jurisdiction must be guided by judicial prudence and due care, particularly in cases where the allegations appear speculative, lack sufficient evidentiary support, or seem to be motivated by mala fide intent.

6. Upon careful analysis of the arguments presented by learned counsel for the applicant and review of the material placed on record, it appears that the tenant was utilizing the residential premises for commercial activities. Following a complaint, the SHO summoned the tenant, who voluntarily provided an undertaking to cease such usage. There is no indication that any threats were issued by the applicant or anyone else. The report submitted by the SHO, PS Ferozabad, also negates the claims made by Respondent No.2 in his application. Furthermore, the applicant's counsel has affirmed that there was no intention to evict the tenant from the premises. It is a well-established legal principle that under Sections 22-A & B Cr.P.C, a court may direct the registration of an FIR only when a cognizable offence is prima facie disclosed. Such directives must not be issued in a routine or mechanical fashion. It is imperative for the Justice of Peace to assess whether the applicant has approached the court with bona fide intent. Reliance is placed on the case of *Imtiaz Ahmed Cheema v. SHO Daharki, Ghotki* (2010 YLR 189), which underscores this approach:

7. The provisions under Sections 22-A & B Cr.P.C have, in numerous instances, been misused. The legislature never intended for these provisions to become tools for individuals to harass others under the guise

of legal process. Courts must exercise sound discretion while adjudicating such applications and ascertain whether the applicant has come before the court with clean hands or is motivated by mala fide intent. If left unchecked, such misuse can significantly affect the effectiveness and morale of law enforcement officials performing their lawful duties.

8. In the case of *Younis Abbas and others v. Additional Sessions Judge Chakwal and others* (PLD 2016 SC 581), the Hon'ble Supreme Court held that the role of the Ex-Officio Justice of Peace is not executive, administrative, or ministerial. His responsibilities are not mechanical in nature but are quasi-judicial, requiring the application of legal reasoning, review of the case record, hearing of the parties, and the issuance of well-reasoned directives. Every matter before the Justice of Peace requires careful judicial consideration and the exercise of prudent judgment:

9. After a thorough examination of the facts and circumstances presented by the applicant, it becomes clear that no cognizable offence has been established. Accordingly, courts are not obligated to direct the police to register an FIR in cases where the allegations lack substantial legal basis. Judicial prudence requires that such directives be issued only after careful consideration to prevent the abuse of legal processes and to protect the fundamental rights of individuals against whom such actions are sought. In view of the foregoing, the impugned order is found to be unsustainable and is hereby set aside. As a result, the instant Criminal Miscellaneous Application is allowed.

**J U D G E**