

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Misc. Application No. S- 300 of 2025

Applicants: 1. Munawar Ali S/O Ali Akber Lund,
2. Ali Muhammad S/O Najamuddin Sahito
through Mr. Pervaiz Ahmed Kuber, Advocate.

Complainant: Mst. Ameerzadi w/o Ali Dost Dasti through
Mr. Ashfaque Hussain Leghari, Advocate.

Respondents: State through Mr. Khalil Ahmed Maitlo, D.P.G.

Date of hearing: 26.05.2025.

Date of Decision: 16.06.2025

ORDER.

Abdul Hamid Bhurgri, J.,- This Criminal Miscellaneous Application has been preferred under Section 561-A, Cr.P.C. by the applicants, thereby assailing the order dated 16.05.2025 rendered by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Mirwah in Criminal Miscellaneous Application No. 1752/2025, preferred under Sections 22-A and B, Cr.P.C., titled “Mst. Ameerzadi vs. The State through DPP Khairpur and others”. Through the impugned order, the learned Justice of Peace directed the Station House Officer, Police Station Mirwah, to record the statement of respondent No.3 and if a cognizable offence is made out same shall be incorporated in 154 Cr.P.C book.

2. The case, as projected by respondent No.3, Mst. Ameerzadi, is that her deceased son, Ali Raza, had been informally engaged by the proposed accused for electrical maintenance works in the locality. It is alleged that the proposed accused had extended express assurance to the deceased that the power supply from the grid station would be disconnected prior to the commencement of any such work. On such assurance the deceased ascended an electric pole on 12.03.2025 at approximately 8:00 p.m to repair the electricity of one Laluddin in presence of eyewitnesses namely Ali Dino s/o Ali Muhammad and Wadero Allah Warrayo s/o Beral. It is averred that

due to the alleged gross negligence or deliberate act of proposed accused No.2, the electricity was suddenly restored, resulting in the instantaneous electrocution and death of the deceased. According to the complainant, upon hearing cries from villagers, she arrived at the location, retrieved the deceased's body with the assistance of others, and transported it to the Police Station for medico-legal formalities. However, it is further alleged that the police authorities declined to entertain the matter or to register an FIR, purportedly due to influence exerted by the proposed accused. Despite repeated efforts by respondent No.3, the police failed to discharge their statutory obligation. The complainant asserts that the Duty Officer, despite being legally enjoined under Section 154, Cr.P.C., to register an FIR upon the disclosure of a cognizable offence, declined to act accordingly, without lawful justification.

3. Thereafter, respondent No.3 submitted a formal written application for registration of FIR; however, the Duty Officer, in alleged dereliction of his statutory duty failed to comply. Consequently she moved an application U/S 22-A and 22-B Cr.P.C before the Court of Justice of Peace, Khairpur, seeking registration of the FIR.

4. Upon issuance of notice, both the official respondents and the present applicants entered appearance and filed respective comments. Respondent No.2, SHO Police Station Mirwah, submitted that the complainant's version was falsely contrived in order to secure an undue advantage.

5. Learned counsel appearing on behalf of the applicants submitted that the impugned order was passed in a perfunctory and mechanical manner, devoid of any judicial application of mind. It was contended that both applicants are employees of SEPCO, and that applicant No.2, Ali Muhammad, had been transferred from the 132 KV Grid Station Mehrabpur to the 132 KV Grid Station Kandiaro, by virtue of office order dated 29.01.2025. Said applicant was relieved from his former post on 31.01.2025 and assumed charge at Kandiaro on 01.02.2025, as evidenced by the annexed documents (Annexures 'C' and 'D'). It was further submitted that the deceased was in the habitual practice of illegally

restoring electrical connections that had been disconnected due to non-payment, and had been repeatedly warned to desist from such unlawful activity. Despite prior warnings, he continued in said unlawful conduct, and consequently, FIR No. 152/2024 under Section 39-A of the Electricity Act was registered against him on the complaint of the Line Superintendent, SEPCO (Annexure 'E'). Additionally, a formal letter dated 27.02.2025 was addressed by the S.D.O (Operations), Sub-Division Setharja, to the SHO of Police Station Thari Mirwah, requesting legal action against the deceased in view of his continued illegal interference with the electrical infrastructure (page 39). Counsel vehemently denied that any directive or permission was issued by the applicants instructing the deceased to ascend the pole, asserting that the deceased was neither in the employ of SEPCO nor acting under their authority. It was contended that the unfortunate incident resulted solely from the deceased's own illegal actions, and not due to any act or omission of the applicants. Learned counsel concluded by submitting that all this material was unjustly ignored by the learned Justice of Peace while rendering the impugned order, and prayed that the same be set aside.

6. Conversely, Mr. Ishfaque Hussain Leghari, Advocate for respondent No.3, filed vakalatnama and defended the impugned order as a well-reasoned and lawful exercise of jurisdiction. He submitted that the deceased used to undertake private work for the applicants and was repeatedly called upon to repair electrical connections. On the fateful evening, the deceased was directed to carry out repairs to an electricity of one Laluddin Khaskheli. Based upon the assurance extended by proposed accused No.2 that power supply from the grid would be suspended, the deceased ascended the pole in presence of witnesses. However, the electricity was abruptly restored, and the deceased suffered fatal electrocution. Respondent No.3 approached the police to lodge an FIR and requested post-mortem examination, but the SHO flatly refused to entertain her complaint. Having been left with no alternative, she invoked the jurisdiction of the Justice of Peace under Section 22-A and B Cr.P.C., whereupon, the learned Judge passed the impugned order dated 16.05.2025, which, it was urged, required no interference as admittedly a death had occurred that warranted

investigation. Learned counsel prayed for dismissal of the present application.

7. Mr. Khalil Ahmed Maitlo, learned Deputy Prosecutor General did not support the order on the ground that SHO in his report had exonerated the applicants. He also prayed that instant Criminal Misc. Application be allowed.

8. I have heard learned counsel for the applicants, the learned Deputy Prosecutor General Sindh and perused the material available on record.

9. It is well settled that the jurisdiction under Section 22-A Cr.P.C can be invoked when police failed to register FIR in respect of cognizable offence. However, it is equally settled that such jurisdiction must be exercised with care, caution and only in the absence of mala fide. This Court is a conscious of facts that the allegations leveled by the respondent No.3/complainant and defense raised by applicants involve disputed questions of fact which require a thorough probe. Such matters cannot be adjudicated upon in proceedings under section 561-A Cr.P.C. The inherent jurisdiction of this Court is to be exercised sparingly only in cases where interference is necessary to prevent abuse of process of law and to secure the ends of justice. Whether the applicants are vicariously liable or not, and whether the version of complainant is credible or otherwise, are matters that fall within exclusive domain of the Investigating Officer. These questions can only be determined after proper investigation and collection of evidence. At this stage, no conclusive opinion can be formed or expressed by this Court as it may prejudice the case of either party. Reliance is placed on the case of *Syed Qambar Ali Shah v. Province of Sindh and others (2024 SCMR 1123)*.

10. In view of above, the impugned order dated 16.05.2025 passed by learned Additional Sessions Judge/Justice of Peace, Mirwah is hereby maintained. The SHO Police Station Mirwah, who has been directed to record statement of respondent No.3 and, if a cognizable offence is made out, to incorporate in 154 Cr.P.C register may

proceed in accordance with law. However, it is observed that unless some tangible incriminating evidence surfaces during the investigation, no arrest shall be effected against the applicants. The applicants are directed to fully co-operate with Investigating officer and place all relevant material before him, who shall conduct the investigation strictly in accordance with law.

11. The Criminal Misc. Application is disposed of in the above terms.

Irfan/PS

JUDGE

