

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-680 of 2022

Applicant : Mst. Zahida Wd/o Late Lal Bux,
Through Mr. Ghulam Murtaza Burriro, Advocate

Respondents : 1. Akbar Almani,
Through Mr. Amjad Ali Almani, Advocate
2. Allah Wassayo s/o Muhammad Bachal, Sahito
3. Azeem s/o Ghulam Hyder, Sahito
4. Shahid Ali s/o Wali Muhammad, Sahito
5. Javed Ali s/o Muhammad Urs, Sahito
6. Imdad s/o Aandal, Sahito
7. Ghulam Nabi s/o Aandal, Sahito
Through Mr. Shafi Muhammad Bango, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 17.10.2025
Date of order : 06.11.2025

ORDER

KHALID HUSSAIN SHAHNI, J.— Applicant Mst. Zahida, invokes the inherent jurisdiction of this court, calling in question an order dated 06th December, 2022, passed by the learned Additional Sessions Judge-III/Ex-officio Justice of Peace, Khairpur, whereby an application to record the statement of the applicant and to register a First Information Report against the proposed accused was dismissed.

2. The facts leading to this Criminal Miscellaneous Application, as narrated by the applicant in her application are that on the 31st day of March, 2022, an agricultural land dispute arose between the brothers of the applicant's husband and the proposed accused persons, namely Allah Wassayo son of Muhammad Bachal, Azeem son of Ghulam Hyder, and others, at a morning hour near the agricultural land belonging to the applicant's brothers-in-law in the locality of their residence. According to the version of the applicant, at about 10:00 a.m. on the said date, the SHO PS Sobhoderro, namely Akbar Almani, allegedly armed with a Kalashnikov rifle, along with four unknown police constables, arrived at the agricultural land in a police mobile vehicle armed with weapons. The applicant further alleges that this official police contingent accompanied the proposed

accused private persons, namely Allah Wassayo, Azeem, Shahid Ali son of Wali Muhammad, Javed Ali son of Muhammad Urs, Imdad son of Aandal, and Ghulam Nabi son of Aandal, all of whom were armed with rifles. According to the allegation, these accused persons forcibly entered the residence of the applicant and committed theft of precious gold ornaments including two pairs of earrings weighing about one tola each, two bangles weighing about five tolas in total, and cash amounting to Rs.40,000. The applicant states that this theft occurred in the presence of witnesses namely Ghous Bux son of Ameer Bux and Naban son of Saleh, both by caste Sheikh, residents of Village Masar Sahito.

3. The applicant further alleges that on the instigation and identification provided by the private proposed accused, the SHO, Akbar Almani, proceeded to arrest the husband of the applicant, namely Lal Bux. According to the applicant's version, her husband was confined illegally and unlawfully in the police lockup of Police Station Sobhodero, and was subjected to brutal torture at the hands of the police personnel. Following these alleged events, the police lodged a FIR bearing Crime No.28 of 2022 at PS Sobhodero. According to the applicant's allegations, this FIR was lodged in a false and malafide manner, with the time of the incident allegedly shown as 08:00 a.m. on the 31st of March, 2022, while the date and time of the report was falsely and malafidly mentioned as 21:00 hours on the same date. The applicant further contends that her husband's name was wrongfully entered as an accused in this FIR instead of naming the actual perpetrators of the offence. On the 02nd day of April, 2022, the police produced her husband before the learned Judicial Magistrate at Sobhodero, upon which the learned Magistrate granted a judicial remand of ten days from 02nd April, 2022 to 11th April, 2022. The most significant aspect of the applicant's narrative concerns the death of her husband, which allegedly occurred on the 07th day of April, 2022. According to the applicant's account, at 11:00 p.m. on that date, while she was present at her residence along with her brothers-in-law named Darya Khan and Sajjan, both sons of Muhammad Salleh, they received an unknown telephone call intimating that her

husband had expired and that his dead body was lying at the Civil Hospital, Khairpur. The applicant states that she and her brothers-in-law immediately proceeded from their village to the Civil Hospital, Khairpur, where they saw and identified the dead body of her husband. The applicant further alleges that she witnessed physical injuries and marks of torture on the body of her deceased husband at that time. Following this identification and upon the request of the applicant, the hospital administration arranged for a post-mortem examination of the deceased. After the completion of the post-mortem proceedings, the applicant received the dead body and returned to her village, where she performed the funeral rites and rituals.

4. Three days after receiving the dead body, on the 10th day of April, 2022, the applicant received the provisional post-mortem report. Upon receipt of this report, she immediately approached the SHO PS Sobhoderi with a written application for the registration of a FIR against the above-named proposed accused persons. However, according to the applicant, the SHO refused to register the FIR, evidently because the said officer himself was named as one of the proposed accused in the allegations. In view of this refusal and the failure of the concerned police officer to perform his statutory duty, the applicant filed a Criminal Miscellaneous Application being No.18 of 2022 before the learned Additional Sessions Judge-III/Ex-officio Justice of Peace, Khairpur, for the issuance of a direction to the SHO to record her statement and to register a FIR against the proposed accused, which application was dismissed by the learned court through the impugned order dated 06th December, 2022. It is this dismissal that has prompted the applicant to file the present Criminal Miscellaneous Application before this Court.

5. A critical fact that emerges from the careful examination of the case file is that the present criminal allegations are not isolated incidents divorced from any prior history or background. Rather, the allegations arise from and are inextricably connected to a pre-existing civil dispute regarding landed property.

The record reveals that there is a civil suit bearing No.40 of 2022, filed by a brother-in-law of the present applicant before the learned Senior Civil Judge at Gambat, District Khairpur, which pertains to a dispute over agricultural land between the applicant's family and the proposed accused. This civil suit remains pending at the date of this order.

6. Furthermore, the material on record demonstrates that the proposed accused had themselves lodged a separate FIR bearing Crime No.29 of 2022 at PS Sobhoderi against the applicant's husband and others. The allegations contained in that FIR are substantially similar in nature to those levelled in the present criminal miscellaneous application, suggesting that both FIRs emanate from the same incident of 31st March, 2022, which was triggered by the underlying dispute over agricultural land.

7. Most significantly, the material available on record reveals that in the course of the scuffle and altercation that ensued during the confrontation on the said date, four persons belonging to the proposed accused party sustained injuries. Medical certificates documenting these injuries have been produced before the learned trial court, indicating that these injured persons had been treated for their injuries at some medical facility. This fact is of considerable relevance, as it demonstrates that the incident on 31st March, 2022 was a violent altercation between two groups in which injuries were sustained on both sides, rather than a one-sided assault committed by the proposed accused and the police against the applicant's family.

8. The learned trial court, in the course of its enquiry, also noted that the perusal of the case record revealed that applicant and the proposed accused persons are fellow members of the same caste, and that the dispute is fundamentally a civil dispute relating to landed property. This observation is of considerable importance, as it provides a context for understanding the present allegations and the underlying motivations for the filing of the present application.

9. The learned advocate for the applicant, Mr. Ghulam Murtaza Buriro, who appeared before this Court on the date of hearing, advanced several contentions and arguments on behalf of the applicant in support of the Criminal Miscellaneous Application. The principal arguments advanced by the learned advocate were as follows:

10. First, the learned advocate argued that the learned trial court failed to appreciate the legal aspects and the settled principles of law applicable to applications under Section 22-A of the Code of Criminal Procedure, 1898. The learned advocate contended that once a written or oral complaint or information is made before the Justice of Peace regarding any alleged criminal offence, the Justice of Peace is statutorily bound to examine whether the information disclosed by the complainant discloses the commission of a cognizable offence, and if the Justice of Peace, in the exercise of his independent judgment and on the basis of the facts narrated by the applicant, forms the opinion that a cognizable offence is disclosed, then he is bound to immediately direct the concerned SHO to register a FIR without delving into the veracity of the information provided or without applying his mind to the question of whether the allegations are true or false.

11. Secondly, the learned advocate relied upon the judgment of the Honourable Supreme Court of Pakistan reported as *Muhammad Bashir v. Station House Officer and others*, wherein it is held that no authority is vested with an officer in-charge of a police station or with any other person to refuse to record a First Information Report where the information conveyed discloses the commission of a cognizable offence. The learned advocate further argued that the Station House Officer is statutorily required to record the statement of any informer if a cognizable offence is made out from the information provided, and the Station House Officer is under an obligation to incorporate the same in the prescribed register as provided under Section 154 of the Code of Criminal Procedure, 1898.

12. Thirdly, the learned advocate submitted that the learned trial court committed a grave error in dismissing the application and that the order passed by the learned trial court was mechanical and devoid of any meaningful legal analysis or reasoning. The learned advocate contended that the learned trial court should have applied its mind to the facts and circumstances of the case and should have directed the Station House Officer to record the statement of the applicant and to register a First Information Report.

13. Fourthly, the learned advocate laid considerable stress upon the provisional post-mortem report, which was produced before the learned trial court. The learned advocate argued that the post-mortem report itself discloses that the deceased sustained injuries and that these injuries bore the hallmarks of torture and violence inflicted upon the deceased by the proposed accused. The learned advocate further contended that the fact of the death of the applicant's husband, coupled with the post-mortem report indicating injuries on the body, was sufficient to disclose the commission of a cognizable offence, and that the learned trial court was bound to direct the registration of a First Information Report.

14. Finally, the learned advocate submitted that the present case was distinguishable from the case law cited by the learned advocate for the proposed accused, and that the settled law requires that the Justice of Peace should be cautious and vigilant in ensuring that the statutory provisions regarding the registration of First Information Reports are not circumvented or violated. The learned advocate further argued that the applicant approached the court with clean hands and with no malafide intention, and that the dismissal of the application was contrary to the interests of justice and equity.

15. The learned advocate for the proposed accused No.1, namely Mr. Amjad Ali Almani, who appeared before the learned trial court, advanced the following principal contentions and arguments:

16. First, the learned advocate argued that the proposed accused, being a police official, was entitled to the protection of Section 22-A of the Code of

Criminal Procedure, 1898, and that the learned trial court was bound to apply a heightened degree of caution and circumspection in examining the allegations made against a police official. The learned advocate further contended that the provisions of Section 22-A have been subject to considerable misuse by litigants who seek to harass and intimidate police officials in the discharge of their official duties, and that the courts should not entertain applications in a mechanical manner without applying rigorous scrutiny to the allegations.

17. Secondly, the learned advocate relied upon the judgment reported in the case law cited by the proposed accused, wherein the Honourable High Court of Sindh has held that while it is settled law that a Station House Officer cannot refuse to record a First Information Report where a cognizable offence is disclosed, the courts must also ensure that the provisions of Section 22-A are not misused to subject police officials to harassment and false allegations. The learned advocate argued that the present application was filed with a malafide intention and an ulterior motive, namely to pressurize the proposed accused and the other private accused to settle the underlying civil dispute regarding landed property.

18. Thirdly, the learned advocate produced copies of the civil suit No.40 of 2022 as well as the FIR bearing Crime No.28 of 2022, in order to demonstrate that the allegations made by the applicant were fundamentally connected to the underlying civil dispute, and that the application was not filed for the purposes of securing justice but rather for the purposes of exerting pressure upon the proposed accused in connection with the said civil dispute.

19. The learned advocate for the proposed accused Nos. 2 to 7, namely Mr. Shafi Muhammad Bango, advanced arguments substantially similar to those advanced by the learned advocate for proposed accused No. 1. The learned advocate further produced before the learned trial court four medical certificates documenting injuries sustained by some of the proposed accused during the altercation on 31st March, 2022. The learned advocate argued that these medical certificates demonstrated that the incident was a quarrel and a physical altercation

between the two groups, in which injuries were sustained on both sides, rather than a one-sided assault by the proposed accused and the police.

20. The learned Deputy Prosecutor General for the State, Mr. Mansoor Ahmed Shaikh, who appeared before this Court on the date of hearing, submitted that the State did not oppose the dismissal of the application and that the State's position was that the learned trial court had properly examined the allegations and had correctly concluded that no cognizable offence was disclosed on the basis of the facts and circumstances of the case. The learned Deputy Prosecutor General further submitted that the learned trial court had properly applied the law in dismissing the application, particularly in light of the context of the underlying civil dispute and the medical evidence on record.

21. Having carefully considered the arguments advanced by all the learned advocates, and having minutely and thoroughly perused the record available before this Court, including the provisional post-mortem report, the First Information Reports, the remand order of the learned Judicial Magistrate, the case diary, the medical certificates, and all other documentary evidence, this Court finds that the order of the learned trial court is not only legally sound and well-reasoned but also correctly reflects the applicable principles of law and the facts and circumstances of the case.

22. The primary issue before this Court is whether the learned trial court erred in dismissing the Criminal Miscellaneous Application and whether the applicant is entitled to a direction from this Court to the SHO to record her statement and to register a First Information Report against the proposed accused. To address this issue, it is necessary to examine not only the legal principles applicable to Section 22-A of the Code of Criminal Procedure but also the medical and factual basis of the allegations made by the applicant.

23. The learned advocate for the applicant has placed considerable reliance upon the judgment of the Honourable Supreme Court of Pakistan reported as *Muhammad Bashir v. Station House Officer and others*, wherein it is held that

a Station House Officer cannot refuse to record a First Information Report where the information conveyed discloses the commission of a cognizable offence. While this principle is indeed settled law, it is important to understand the precise scope and application of this principle. The principle enunciated in Muhammad Bashir does not mean that a Justice of Peace or a court is bound to mechanically direct the registration of a First Information Report merely because a complaint has been filed and the complainant alleges that a cognizable offence has been committed. Rather, the principle requires that where information is presented which, on its face, discloses the commission of a cognizable offence, and where there is no evidence of malafide or misuse of the process, the Station House Officer cannot arbitrarily refuse to record the information.

24. However, it is equally well-established that the courts are not merely mechanical instruments for the registration of First Information Reports. Indeed, the courts are vested with the discretion and the power to apply their minds to the facts and circumstances of each case, and to determine whether a true disclosure of a cognizable offence is made out. The principle of law is not absolute; rather, it is qualified by the requirement that the courts must exercise caution and circumspection, particularly in cases where the allegations are made against government officials or where there is evidence of a malafide motive or an ulterior purpose.

25. In the present case, this Court is concerned not merely with a technical question of whether the Station House Officer can be compelled to record a statement and register a First Information Report, but rather with the more fundamental question of whether the allegations made by the applicant, when examined in light of all the evidence on record, particularly the medical evidence, disclose a genuine cognizable offence or whether they are an attempt to misuse the criminal law process for purposes of exerting pressure in connection with an underlying civil dispute.

26. It is indeed a matter of considerable significance that the allegations made by the applicant are fundamentally connected to and arise out of an underlying civil dispute regarding landed property. The learned trial court has noted in its order that the applicant, the proposed accused Nos. 2 to 7, and the applicant's brother-in-law are all fellow members of the same caste, and that a civil suit is pending between them regarding agricultural land. This context is highly relevant to the consideration of whether the present application is genuine or whether it is an attempt to misuse the criminal law process.

27. Moreover, the material on record demonstrates that the proposed accused had themselves lodged a First Information Report (Crime No. 29 of 2022) against the applicant's husband and others in connection with the same incident. This fact suggests that both groups have sought to utilize the criminal justice system in connection with the same incident, and that the present application may be viewed, at least in part, as a counter-move in a larger dispute. Most crucially, and this is the central point which distinguishes this case from other cases where applications under Section 22-A have been entertained, the medical evidence on record does not support the allegation that the death of the applicant's husband was caused by torture or maltreatment at the hands of the police or the proposed accused. This is a matter of considerable legal and factual significance, and it warrants detailed examination and analysis. The provisional post-mortem report, which was the principal evidence relied upon by the applicant before the learned trial court, reveals that the deceased was referred by the Medical Officer of the Central Prison, Khairpur, to the Khairpur Medical College Civil Hospital on 07th April, 2022, with a complaint of swelling of the right arm with severe pain. Upon examination at the hospital, the deceased was diagnosed as a case of cellulitis caused due to assault about seven to eight days prior to the examination. Cellulitis is a medical condition characterized by inflammation and infection of the skin and underlying tissue, typically caused by bacterial infection. The post-mortem report specifically notes that the deceased had gross swelling of the right full arm, with

blisters and spots of purulent discharge at different aspects of the right arm, as well as peeling of skin seen at different sites at the dorsal aspect of the right hand and at the medial aspect of the upper right arm.

28. The crucial observation contained in the post-mortem report is that the orthopedic opinion indicated that the injuries were approximately seven to eight days old at the time of the deceased's examination and death. The post-mortem report further states that the deceased died at approximately 21:45 hours (09:45 p.m.) on 07th April, 2022. The death certificate, issued by Dr. Nisar Ahmed Somro, Medical Officer, KMC Civil Hospital Khairpur, dated 13th April, 2022, states that the deceased was admitted to the hospital with a complaint of swelling of the right full arm with blisters, purulent discharge at some aspects, and peeling of skin at different aspects, and was diagnosed as a case of cellulitis due to assault. The death certificate further states that the deceased expired at approximately 17:00 hours (05:00 p.m.) on 07th April, 2022 during treatment.

29. The critical issue which this Court must address is the cause of death. The medical evidence on record suggests that the death was caused by cellulitis, which is a serious skin infection that can result in systemic infection and sepsis if not properly treated. Cellulitis can be a life-threatening condition, particularly if it affects a large area of the body or if it progresses to bacteremia and sepsis. In the present case, the deceased had cellulitis affecting the entire right arm, with purulent discharge and peeling of skin, which suggests a serious and advanced stage of the infection.

30. The medical evidence indicates that the alleged assault which caused the initial injuries occurred approximately seven to eight days prior to the deceased's admission to the hospital, that is to say, around 31st March or 01st April, 2022. The deceased was arrested by the police on 02nd April, 2022, and was presented before the learned Judicial Magistrate on the same date. Significantly, at the time of his appearance before the learned Judicial Magistrate, the deceased did not complain of any maltreatment or torture at the hands of the police. The remand

order issued by the learned Judicial Magistrate, dated 02nd April, 2022, explicitly records that "the accused has not complained of maltreatment at hands of police." Furthermore, the remand order records that "no plausible reason for police custody is shown," and accordingly, the learned Judicial Magistrate granted a judicial remand of ten days from 02nd April, 2022 to 11th April, 2022.

31. The deceased was lodged in the judicial lockup and later transferred to the Central Jail, Khairpur. According to the record, the deceased remained in custody during the period of judicial remand. On 07th April, 2022, that is to say, five days after his arrest, the deceased was referred to the Civil Hospital, Khairpur, by the Medical Officer of the Central Prison, with a complaint of swelling of the right arm with severe pain. The referral letter, dated 07th April, 2022, indicates that the deceased was suffering from cellulitis with severe pain and that he was being referred for emergency medical treatment and hospitalization.

32. Upon his admission to the hospital, the deceased underwent treatment for the cellulitis. However, despite medical treatment, the deceased's condition deteriorated, and he died on 07th April, 2022, about five hours after his admission to the hospital. The death occurred during treatment at the hospital, under the supervision of medical personnel, and in the presence of judicial and medical authorities. This Court must now consider what can be reasonably inferred from this medical evidence. The first and most obvious inference is that the death of the deceased was caused not by torture or maltreatment at the hands of the police or the proposed accused during the period of custody, but rather by the progression and deterioration of the cellulitis infection that had been contracted or inflicted about seven to eight days prior to his arrest. The cellulitis, if it resulted from the assault that occurred on 31st March, 2022, would have been incubating and developing over the five to seven days preceding his arrest. By the time of his arrest on 02nd April, 2022, the infection had already begun to manifest itself, as evidenced by the fact that the deceased had to be referred to the hospital just five days later.

33. Cellulitis is a condition that can become life-threatening if it is not properly treated or if it is allowed to progress unchecked. The initial assault that caused the injury, assuming it did occur as alleged by the applicant, would have created wounds in the skin and underlying tissue, thereby breaching the natural barrier to bacterial infection. Over the course of five to seven days, bacteria would have proliferated in the wound, causing the inflammation, swelling, purulent discharge, and skin necrosis that are characteristic of advanced cellulitis. By the time the deceased was referred to the hospital, the infection had reached such an advanced stage that despite hospitalization and medical treatment, the deceased's condition could not be reversed, and he died. The crucial point is that the death was not caused by torture or maltreatment during the period of judicial custody. Rather, the death resulted from the progression of a pre-existing medical condition, namely cellulitis caused by an infection of a wound that had been sustained approximately seven to eight days prior to the arrest and custody of the deceased. The applicant has not alleged, and the record does not disclose, that the deceased was subjected to torture or violence during the period of judicial custody that would have exacerbated or worsened the cellulitis. The remand order specifically records that the deceased did not complain of any maltreatment during the period of police custody, and the deceased was placed in judicial custody, not police custody, for the bulk of the period preceding his death.

34. This Court is therefore of the considered opinion that the allegations made by the applicant, when examined in light of the medical evidence on record, do not disclose a cognizable offence of torture or maltreatment resulting in death. Rather, the medical evidence suggests that the death was caused by a serious skin infection that resulted from an alleged assault that occurred seven to eight days prior to the arrest and custody of the deceased. While it may be that an assault did occur on 31st March, 2022, as a result of the land dispute, the death of the deceased cannot be attributed to torture or maltreatment during the period of custody without

evidence that the deceased's condition was worsened or exacerbated by such torture or maltreatment.

35. Furthermore, the applicant has failed to make the Central Jail authorities a party to the present proceedings, despite the fact that the deceased died while in jail custody. This failure is highly significant. If the applicant's allegation were that the deceased was tortured and killed during the period of police custody, then the police officials should be the primary targets of the allegations. However, the applicant's application has failed to clearly delineate when the alleged torture occurred and at whose hands it was inflicted. The applicant has named not only the police officials but also the private proposed accused as perpetrators of the alleged torture, thereby rendering her allegations vague, unfocused, and lacking in specificity.

36. Moreover, the applicant's failure to implead the Central Jail authorities or to seek an investigation into the conditions under which the deceased was kept in the jail during the period of judicial custody suggests that the applicant's allegations are not carefully thought through or grounded in a genuine concern for justice. If the deceased died as a result of torture and maltreatment during his period of custody, then the authorities responsible for the custody would be the ones who inflicted such treatment, whether the police or the jail authorities. The applicant's failure to implead both sets of authorities suggests that her allegations are not grounded in a genuine belief that her husband was tortured, but rather reflect a desire to exert pressure on the proposed accused in connection with the underlying civil dispute.

37. This Court is also cognizant of the fact that on 2nd April, 2022, when the deceased was produced before the learned Judicial Magistrate, no complaint was made of any maltreatment or torture. This is a highly significant fact. Had the deceased been subjected to brutal torture and maltreatment at the hands of the police, it is reasonable to expect that he would have complained to the Judicial Magistrate at the time of his appearance before the court. The fact that he did not

lodge any complaint, and the fact that the Judicial Magistrate did not refer him for any medical examination or treatment, suggests that there was no visible evidence of torture or maltreatment at that time. It is only subsequently, five days later, when the deceased was referred to the hospital for treatment of the cellulitis, that the injury and infection became apparent.

38. This Court has also taken cognizance of the fact that the applicant has failed to produce the final post-mortem report before this Court. The record indicates that only the provisional post-mortem report was produced, and that the final post-mortem report, which would contain the final opinion of the pathologist and the chemical and histopathological examination of the viscera and tissues, was still awaited at the time of the learned trial court's order. The absence of the final post-mortem report is a significant lacuna in the applicant's case, as it prevents a full and proper determination of the cause of death. Furthermore, this Court is obliged to consider the guidance provided by the Honourable Supreme Court of Pakistan in the case of *Rai Ashraf and others v. Mohammad Saleem Bhatti and others* (PLD 2010 SC 691), wherein it is held that where an application under Section 22-A of the Code of Criminal Procedure is filed with a clear indication of malafide or ulterior motive, the courts are entitled to refuse to entertain the application or to dismiss the application without directing the registration of a First Information Report. In the present case, there are considerable indications that the application has been filed with a malafide motive and an ulterior purpose, namely to exert pressure on the proposed accused in connection with the underlying civil dispute regarding landed property.

39. This Court in the case of *Imtiaz Ahmed Cheema, SHO, v. SHO, PS Daharki, Ghotki* (2010 YLR 189) held that the provisions of Section 22-A of the Code of Criminal Procedure have been subject to considerable misuse, and that courts are not bound to mechanically entertain applications under Section 22-A without applying their minds to the question of whether the applicant has approached the court with clean hands or whether the application is tainted with

malafide and further that unless such caution is exercised, the provision would have far-reaching negative effects on the efficiency and morale of police officials who discharge their duties in accordance with law.

40. This Court in case of *Jameel Ahmed Butt v. The State, through Prosecutor General, Sindh* (2014 P.Cr.L.J 1093) held that applications under Section 22-A should not be entertained lightly or in a mechanical manner, and that particular caution should be exercised when the alleged offence is serious in nature, as such allegations might create a law and order situation in the area. In such cases, the courts must carefully examine whether the allegations are grounded in genuine concern for justice or whether they are motivated by an attempt to harass and intimidate the proposed accused, particularly if the proposed accused are government officials.

41. In light of all the foregoing considerations, and upon a meticulous examination of the medical evidence on record, particularly the provisional post-mortem report and the death certificate, this Court is of the firm view that the allegations made by the applicant do not disclose a cognizable offence that would warrant the registration of a First Information Report. The medical evidence demonstrates that the death of the applicant's husband resulted from the progression of a serious skin infection known as cellulitis, which originated from an alleged assault that occurred about seven to eight days prior to the arrest and custody of the deceased. The evidence does not support the allegation that the death was caused by torture or maltreatment during the period of police or judicial custody.

42. Moreover, this Court is satisfied that the applicant has approached the present court with a malafide motive and an ulterior purpose, namely to exert pressure on the proposed accused in connection with the underlying civil dispute regarding landed property. The context of the case, the fact that a civil suit is pending, the fact that the proposed accused have themselves lodged a counter-FIR, and the vague and unfocused nature of the allegations all support the conclusion that the application is tainted with malafide.

43. For all the foregoing reasons, this Court is satisfied that the order of the learned Additional Sessions Judge-III/ Ex-officio Justice of Peace, Khairpur, dated 06th December, 2022, dismissing the Criminal Miscellaneous Application No. 18 of 2022, was legally correct, properly reasoned, and grounded in the facts and circumstances of the case. The learned trial court correctly exercised its discretion in refusing to direct the registration of a First Information Report, particularly in light of the medical evidence which demonstrates that the death of the applicant's husband was caused by a medical condition, specifically cellulitis caused by bacterial infection of a wound, and not by torture or maltreatment during the period of custody.

44. The present Criminal Miscellaneous Application is accordingly dismissed. The applicant is at liberty to pursue such other remedies as may be available to her in law, including the filing of a civil suit for damages if she believes that any property belonging to her was wrongfully taken, or the lodging of a complaint before the Police Complaint Authority if she believes that there has been misconduct on the part of any police official. However, the Court cannot direct the registration of a First Information Report on the basis of allegations which, when examined in light of the medical evidence, are not supported by the facts and which appear to have been motivated by a malafide purpose. This order is passed to prevent the misuse of the criminal law process for purposes of exerting pressure in connection with civil disputes.

J U D G E