

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Miscellaneous Application No.S-434 of 2025

Present: Justice Jawad Akbar Sarwana

Applicant	:	Mst. Mumtaz Begum wd/o Daud Khan, through Mr.Aijaz Ali Bhutto, Advocate
Respondent No.1	:	Senior Superintendent of Police, District Hyderabad
Respondent No.2	:	Station House Officer PS Pabjo, District Shaheed Benazirabad
Respondent No.3	:	Qurban Ali Kalhoro, SHO PS Pabjo
Respondent No.4	:	Sahib Khan Mubjeo (Posted as ASI at PS Pabjo
Respondent No.5	:	Roshan Dahri (posted as PC at PS Pabjo)
Respondent No.6	:	Murtaza Dahri (posted as PC at PS Pabjo)
Respondent No.7	:	Saddam Lashari (Posted as PC at PS Pabjo) Through Mr.Khalid Hussain Lakho, D.P.G
Respondent No.8	:	Muzaffar Ali s/o Abdul Wahid Dahri
Respondent No.9	:	Mazhar s/o Abdul Wahid Dahri
Respondent No.10	:	Zulfiqar Ali s/o Abdul Wahid Dahri
Respondent No.11	:	Zafar Ali s/o Abdul Wahid Dahri Through Mr.Ghulamullah Chang, Advocate
Date of hearing	:	<u>24.11.2025</u>
Date of decision	:	<u>24.11.2025</u>

ORDER

JAWAD AKBAR SARWANA, J.: The applicant, Mst. Mumtaz Begum, is aggrieved by the Order dated 30.05.2025, passed by the III-Additional Sessions Judge/Ex-Officio Justice of Peace, Shaheed Benazirabad, declining to pass orders directing the Police authorities to record her statement concerning an alleged incident which took place on 04.05.2025 at around 1330 hours.

2. According to the applicant Counsel, about two years ago, Mst. Mumtaz Begum got registered an FIR No.15/2023, at Police Station Pabjo against the proposed accused/respondents No.1 to 9, some of whom she has alleged have murdered her husband, Dawood Khan Dahri. She contends that on 04.05.2025, the respondents/proposed

accused Nos.8 to 11, illegally and forcibly entered and trespassed into her residence, physically assaulted her and her daughter, used criminal force, outraged the modesty of a woman, ransacked the household, including destroying the solar panels installed outside her residence, etc. She captured the incident after the proposed accused had left by taking photos and recording video at the scene of the alleged crime, which remains available on her cell phone. She also allegedly gave an interview to local news media about the incident of 04.05.2025, which was/is also available online. She shared all such electronic data with the Ex-Officio Justice of Peace and this (High) Court. Counsel for the applicant contended that, based on the information available, a case was made out for the Ex-Officio Justice of Peace to issue directions to the Police authorities to record her statement.

3. Counsel for the proposed accused/respondents No.8 to 11, at the outset, denied the occurrence of any incident between the parties on 04.05.2025. He contended that prior to the date of the incident alleged by the applicant (on 04.05.2025), actually on 03.05.2025, an FIR No.28/2025, had been lodged against the two sons of the applicant/complainant, namely Zaheer and Saleem Dahri. He contended that the complaint filed by the applicant-complainant before the Ex-Officio Justice of Peace by the applicant was a counterblast to the FIR No.28/2025, registered at PS Pabjo. Furthermore, the allegation that the applicant's sons were abducted was part of the police operation taken against them pursuant to the FIR No.28/2025. The applicant's two sons were thus never abducted and the complaint filed by the applicant-complainant before the Ex Officio Justice of Peace, was false. He argued that the impugned Order dated 30.05.2025 was passed in accordance with the law and liable to be maintained by this (High) Court.

4. Learned D.P.G. contended that the record reflects that there is/was an acrimonious relationship between the parties, and based on the

material available, there is no defect in the impugned Order dated 30.05.2025 passed by the Ex-Officio Justice of Peace.

5. Heard counsel for the parties as well as learned D.P.G and perused the record. The learned Ex-Officio Justice of Peace has mentioned the existence of video footage available on record but discarded the same for the reason that it was only showing images of household items scattered around the room, etc. Further, he observed that the recorded images did not show any persons/proposed accused present at the crime scene as alleged by the applicant. Therefore, he concluded that no information was available to trigger the recording of the applicant/complainant's statement by the Police authorities.

6. Clearly, when an incident such as the one alleged by the applicant/complainant takes place involving womenfolk with several men forcing entry into a widow's residence, it is most unlikely that the victim's first instinct would be to pick up her smartphone and start electronically documenting the incident. Such a response would be most unlikely in the circumstances. A more instinctive and typical response of a person who finds themselves in danger is to take evasive action to protect their life and that of family members. Therefore, the entire information submitted to the Ex-Officio Justice of Peace, just because there is/was no live recording of the incident, could not be disregarded. While the information recorded after the happening of the incident may still not be conclusive proof of its occurrence, the information (electronic data recorded by the complainant-victim herself), as available in this lis, presumably soon after the occurrence of the incident from the place of incident, was to be examined in the context of the facts and circumstances of the case with the view to determine if the information could be used to make up any of the ingredients of a potential offence under the PPC and trigger the proviso of 22-A(6)(i) Cr.P.C.

7. To this end, given the electronic information available, the information provided by the applicant-complainant could not have been reduced to a cipher simply because it was recorded after the alleged incident. In my opinion, the information required for the recording of the applicant-complainant's statement by the police authorities.

8. Without prejudice to the above, as per the selection of images/videos shown to me in Court on the smartphone of the applicant's Counsel, one of the images is that of a solar panel allegedly claimed to have been destroyed by the proposed accused. It does not appeal to logic, given the cost of solar panels these days, that the complainant herself would voluntarily destroy her own solar panel. *Prima facie*, the information recorded by the applicant suggests forceable entry, mischief, etc. However, it is neither the domain of the Ex-Officio Justice of Peace nor this Court to go into such investigation and/or inquiry under Section 22-A(6)(i) Cr.P.C. Such matters are best left for the recording of the Statement of the applicant-complainant by the Police authorities and further action(s), if any, in accordance with law.

9. Given the above observations, in the circumstances, the impugned Order dated 30.05.2025, passed by the Ex-Officio Justice of Peace, is hereby set aside, and the concerned police authority is directed to record the statement of the applicant-complainant and take action in accordance with law. In case the statement of the applicant/complainant is found to be false, proceedings under Section 182 PPC shall be initiated against the applicant/complainant.

10. The Criminal Misc: Application is **allowed** in the above terms.

JUDGE