

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-685 of 2025

Applicants : 1) Javeed Ahmed s/o Muhammad Nawaz Khan
2) Muhammad Nawaz Khan s/o Hassan Kha
Through Mr. Shabbir Ali Bozdar, Advocate

Respondent No.3 : Mst. Jagul w/o Nabi Bakhsh, Boohar
Through Mr. Abdul Majeed Memon, Advocate

The State : *Through Mr. Muhammad Raza Katohar, DPG*

Date of hearing : 04.12.2025
Date of Short order : 04.12.2025
Reasons recorded on : 05.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— The applicants have filed the present application under Section 561-A Cr.P.C., seeking to set aside the order dated 27.10.2025 passed by the learned Additional Sessions Judge-I/ Ex-Officio Justice of Peace, (MCTC) Ghotki, whereby the SHO (respondent No.2) was directed to record the statement of respondent No.3 and, if a cognizable offence was disclosed, to register an FIR and proceed in accordance with law.

2. The controversy between the parties originates from a matrimonial dispute. Mst. Zeenat, daughter of the complainant in FIR No.103/2025, contracted marriage with Sain Dino, son of the present applicants. Her father initially lodged an FIR accusing the applicants and others of kidnapping. During investigation; however, Mst. Zeenat recorded her statement under Section 164 Cr.P.C, wherein she categorically denied abduction and confirmed that she married of her own free will. An ossification test reflected her age as approximately 18–19 years, supporting her statement. The investigation also revealed that she was pregnant and living voluntarily with her husband. Consequently, the police exonerated all accused persons from the alleged kidnapping.

3. Thereafter, respondent No.3 filed a Criminal Miscellaneous Application No.2049/2025 before the Ex-Officio Justice of Peace, alleging that her son had been kidnapped by the applicants and others. The SHO sought time

to submit a detailed report, yet the learned Justice of Peace proceeded to pass the impugned order directing respondent No.2 to record the statement of respondent No.3 and to proceed as per law.

4. Learned counsel for the applicants argued that the impugned order was passed in undue haste, without providing the applicants an opportunity of hearing, contrary to the principles of natural justice and the mandate of Article 10-A of the Constitution. It was contended that the allegations of kidnapping were mala fide and were engineered to exert pressure upon the applicants due to the marriage of their son with Mst. Zeenat. Counsel placed reliance on the statement of the SHO, who had already informed the learned Justice of Peace that no such incident of kidnapping had occurred within his jurisdiction. In these circumstances, counsel submitted that the Justice of Peace acted mechanically and without proper application of mind, and that the impugned order amounts to abuse of the process of law.

5. On the other hand, learned counsel representing respondent No.3 maintained that the allegations involved disappearance of a person, which directly concerns the fundamental right to life and liberty, and therefore required immediate attention. He submitted that recording the complaint of respondent No.3 was necessary to ensure appropriate inquiry and that any innocence claimed by the applicants could be determined during investigation.

6. Learned Deputy Prosecutor General supported the impugned order with the contention that, considering the seriousness of the allegation, the Justice of Peace was justified in directing the police to record the statement and proceed according to law. He nonetheless acknowledged that the SHO had earlier reported that no such kidnapping incident had taken place.

7. After hearing the parties and examining the record, this Court is conscious that the jurisdiction under Section 561-A Cr.P.C is extraordinary in nature and is to be exercised sparingly. The purpose of this jurisdiction is to prevent abuse of the process of law or to secure the ends of justice. While the

applicants have raised objections regarding the absence of notice and the haste with which the order was passed, the fact remains that the application filed before the Justice of Peace pertained to allegations involving disappearance of a person. Matters concerning life and liberty warrant prompt attention, and the Justice of Peace is empowered to act in aid of the protection of fundamental rights.

8. The impugned order does not itself direct automatic registration of an FIR. It merely directs the SHO to record the statement of respondent No.3 under Section 154 Cr.P.C, and thereafter to determine whether a cognizable offence is disclosed. The police retain full authority to examine the truthfulness of the allegations. The SHO's earlier statement denying the occurrence of any such incident can appropriately be considered during the course of inquiry. Thus, the order neither prejudices the rights of the applicants nor forecloses any remedy available to them in law, including the right to apply for pre-arrest bail or to seek quashment of proceedings if the investigation ultimately reveals no cognizable offence.

9. This Court refrains from expressing any opinion on the merits of the allegations. Such matters are to be determined by the competent investigating agency and, if necessary, by the trial court. For these reasons, the Criminal Miscellaneous Application is dismissed. The interim order dated 29.10.2025, whereby operation of the impugned order was suspended, is vacated. Respondent No.2 is directed to comply with the impugned order forthwith and conduct a fair, impartial, and lawful inquiry entirely uninfluenced by any observations made herein.

10. Copies of this order shall be sent to the learned Ex-Officio Justice of Peace and to the SHO Police Station Khambhra for information and compliance. Office shall also issue copies to all parties. These constitute the reasons for the short order dated 04.12.2025.

J U D G E