

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Present: Justice Jawad Akbar Sarwana

Crl. Misc: Application No.S-235 of 2025

Applicant : Pir Dino Katyar s/o Rajib Kater
Through Mr. Imtiaz Ali Channa, Advocate

Respondents No.1, 2 : Ms. Sana Memon, A.P.G
and 4

Respondents No.3 : Mouledino s/o Zangi
Through Mr. Parvez Tarique Tagar, Advocate

Crl. Misc: Application No.S-260 of 2025

Applicant : Mouledino s/o Zangi
Through Mr. Parvez Tarique Tagar, Advocate

Date of hearing : **23.04.2026.**
Date of Order : **23.04.2026.**

ORDER

JAWAD AKBAR SARWANA, J: The applicant, Mouledino son of Zangi by caste Jatoi in Criminal Miscellaneous Application No.S-260/2025 is aggrieved by order dated 19.04.2025 passed by Additional Sessions Judge-I/Ex-Officio Justice of Peace, Dadu when after hearing the parties the Ex-Officio Justice of Peace passed orders to record the statement of Mouledino and at the same time limited the outcome of the recording of statement to only two named proposed accused, that is, SIP Benazir Jamali and Inspector Pirdino Katiar.

2. Counsel for the applicant Mouledino contends that the impugned order dated 19.04.2025 constrained the investigative powers of the police authorities based on the statement of the applicant Mouledino to be recorded by the police authorities. He contended that in case information comes to light which may trigger a section of the PPC that could potentially involve further action and/or investigation/inquiry against the remaining proposed accused impleaded in this lis, this impugned order dated 19.04.2025 will come in the way. Hence the applicant Mouledino challenged the said impugned order dated 19.04.2025 passed by the Ex-Officio Justice of Peace.

3. Meanwhile learned counsel for proposed accused No.2 Inspector Pirdino Katiar is also aggrieved by the same impugned order for the reason that he contends there is/was no information available with the Ex-Officio Justice of Peace to pass the order for recording of statement. He argues that on the day of incident i.e. 21.02.2025 at 3:00 p.m. another FIR had been lodged namely FIR No.02/2025 (registered at 11:00 p.m) therefore no cause for recording of statement of the accused-Mouledino was made out. Counsel for Pirdino further submitted that the date of incident is manufactured and manipulated by the complainant Mouledino with malafide intention. He contended that complainant Mouledino was a habitual criminal and relied on the police report available on page-27. Hence he impugned the said order in Criminal Miscellaneous Application No.S-235/2025.

4. Heard counsel, A.P.G and perused the record.

5. I have gone through the impugned order; however as per law any person who has information of an offence having been committed is entitled under the law to provide such information to the Police Station. Once such information is provided it is up to the police officer to determine whether any offence is revealed and if an offence is revealed whether it is cognizable or non-cognizable. The Criminal Procedure Code and Police Rules provide ample guidance to police officers to proceed in either situation, as well as situation when false information has been provided. The police officer shall apply his own mind and act in accordance with law. In the instant case, the Ex-Officio Justice of Peace ordered for recording of statement. To this extent the Ex-Officio Justice of Peace exercised his powers well within the provisions of Section 22-A & B Cr.P.C. However, once an Ex-Officio Justice of Peace orders recording of statement, such recording of statement is in the hands of the police authorities. The next stage of information handling, whether or not to register an FIR or to take any other action rests with the police authorities and not the Ex-Officio Justice of Peace unless some exceptional circumstances are made out. The Ex-Officio Justice of Peace should avoid stepping into the shoes of the police officer. In the present case by limiting the options available of the police officer to act upon the statement of the applicant once information is gathered and limiting available action against only two of the proposed accused out of the remaining proposed accused which included unidentified police constables, the Ex-Officio Justice of Peace indirectly as per the impugned order exercised powers reserved for police authorities. As such to this extent the impugned order is contrary to the provisions of Section 22-A and B Cr.P.C.

6. Reference FIR No.02/2025 filed by ASI Ghulam Sarwar Panhwar, the same has been dismissed vide Judgment dated 21.06.2025 passed by the Sessions Judge Dadu in Sessions Case No.314/2025. Hence no case is made out concerning submissions made by counsel for proposed accused No.2-Inspector Pirdino Katiar on this score.

7. Given the above, the impugned order dated 19.04.2025 is set-aside. I find that the impugned order passed by the Ex-Officio Justice of Peace limiting police power based on information gathered, if any, to the two proposed accused is contrary to law and, hence liable to be set aside to such extent. It is clarified that the police authorities are at liberty to take action based on whatever information is gathered from the statement of the complainant without restraint. Alternatively, if the case is found to be false during the investigation, proceedings under Section 182 PPC may be initiated.

8. With regard to the contentions of counsel for the Inspector Pirdino Katiar in the facts and circumstances there appears to be information available to atleast trigger recording of statement by the police authorities under Section 22-A & B Cr.P.C.

9. The two Criminal Miscellaneous Applications stand disposed of in the above terms.

JUDGE

Tufail