

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH.
(Judicial Department)

W.P No.405-B/2020.

Bibi Amina
Versus.
DPO Karak & others.

JUDGMENT

Date of hearing: 25.11.2025.

For petitioners: Taj Rehman, brother-in-law of petitioner.

For respondent(s) Mr. Abdul Waheed Khattak, AAG along with
Muhammad Yousaf, DSP Karak.

ABDUL FAYAZ.J- Through the present constitutional petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks the quashment of order dated 09.04.2020 passed by the learned Ex-Officio Justice of Peace / Additional Sessions Judge-II, Karak, whereby her application under Section 22-A(6), Cr.P.C. was dismissed.

2. Brief facts forming the background of the instant writ petition are that ASHO Kamran Ali of Police Station Karak registered FIR No. 186 dated 22.03.2020 under Sections 302/324/353/148/149 PPC read with Section 15-AA against Muhammad Riaz, Muhammad Rasool and others. It was alleged that on 22.03.2020 at about 11:15 hours, the police party was escorting one Gul Rauf Advocate in compliance with orders of this Court in W.P. No. 2938/2016 for

provision of security, when the incident occurred resulting in the death of Gul Rauf on the spot and injuries to Constable Humayun No. 5897. During pursuit of the accused, Noor Tiaz, husband of the present petitioner was also found dead at the scene.

3. The petitioner, in her application under Section 22-A, Cr.P.C., alleged a completely different version. She stated that at about 11:00 a.m. on the same day, Gul Rauf along with Imam Basher and police personnel headed by ASHO Kamran Ali came to their area at Speena Banda to visit a graveyard and their house. According to her, because of a longstanding blood feud, wherein eight persons including six women of her side had allegedly been killed, the appearance of the police party along with the rival group caused panic. She alleged that the police, in connivance with the rival party, abused and manhandled the women, tore their clothes, and dragged them. Upon hearing the commotion, her husband Noor Tiaz and father-in-law Muhammad Rasool came down from a nearby hill, whereupon the police allegedly opened firing. She further alleged that respondents No. 6 to 9 also appeared in a white car and fired upon her husband, who was then allegedly arrested alive, beaten, and killed extra-judicially, and his bullet-riddled body was handed over the next day only after

villagers blocked the Indus Highway. The learned Justice of Peace, after receiving comments from the SHO and hearing both sides, dismissed the application under section 22-A Cr.P.C. Hence this writ petition.

4. Arguments heard and record perused.

5. The record shows that the petitioner herself admitted in paragraph 2 of her application that there existed blood feud between the parties. In such circumstances, it appears highly improbable that Gul Rauf, accompanied by police, would voluntarily proceed to the house of the petitioner merely for altercation with the female inmates. The comments filed in this petition reveal that Gul Rauf, under police protection, had gone to the native graveyard to offer *Fateha*, and during their return journey he was attacked by the husband of the petitioner and his co-accused, resulting in casualties from both sides. According to the FIR, Gul Rauf was killed by the accused party, while the petitioner's husband was killed during cross-fire with the police. Investigation in FIR No. 186 is still in progress and ASHO Kamran Ali is the complainant therein.

6. In these circumstances, the filing of an application under Section 22-A, Cr.P.C. appears just to obstruct and influence the investigation of the said FIR, wherein the petitioner's husband, Noor Tiaz along with other co-

accused stood nominated. Furthermore, it is a matter of judicial notice that the provisions of Section 22-A, Cr.P.C. have frequently been misused. The legislature never intended that police officials, who take action in the lawful discharge of their duties, be subjected to harassment through such applications. Courts must exercise caution and ensure that such applications are not entertained mechanically. Reliance in this regard is placed on case titled **“Imtiaz Ahmed Cheema Vs. SHO Police station Dharki, Ghotki and 2 others”** reported in (2010 YLR 189), wherein it has been held that:

“I have heard the learned counsel and perused the record. The provisions of section 22-A, Cr.P.C. have been misused in a number of cases. The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice is discharged, it would have far reaching effect on the police officials who in discharge of duties take actions against them. The law has to be interpreted in a manner that its

protection extends to every one. I am therefore, of the opinion that order of the Sessions Judge was passed in mechanical manner and the applicant approaching the Sessions Judge. As per the record reflects that it was tainted with malice. I do not want to comment upon the conduct of the complainant, however it will be open to complainant to file direct complaint against the applicant if so advised and observations made in these proceedings will not come in the way of the complainant. The proposed complaint if filed will be decided on its own merits."

7. For what has been discussed above, we find no illegality or irregularity in the impugned judgment of the learned Justice of Peace, therefore, the same is maintained and the writ petition being bereft of merit is dismissed, however it will be open to the petitioner/complainant to file direct complaint against the respondents if so advised and observations made in these proceedings will not come in the way of the complainant.

Announced.

25.11.2025

Ihsan

SCANNED
02 DEC 2025
Khalid Khan

(D.B)

Hon'ble Mr. Justice Muhammad Tariq Afridi &
Hon'ble Mr. Justice Abdul Fayaz.