2025 MLD 1991

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

Crl. Misc No.998 of 2025

The State through Advocate General, ICT, Islamabad.

Vs.

Mustafa Iqbal.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	26.06.2025	M/s. Malik Abdul Rehman, Ms. Sumera Khursheed and Ch. Zulqarnain, State Counsel. Mr. Sajid Cheema, DSP (Legal). Khalid Mehmood, ASI. Mr. Farhan Nazir Kiyani, Advocate for respondent.

MUHAMMAD ASIF, J. The State through Advocate General, Islamabad has invoked the constitutional jurisdiction of this Court, challenging the orders dated 08.03.2025 and 21.05.2025, passed by the learned Additional Sessions Judge-IX, Islamabad (West)/Ex-Officio Justice of Peace. Vide the first impugned order, an application under Sections 22-A & 22-B, Cr.P.C., filed by respondent (*Mustafa Iqbal*), was allowed with the direction to the SSP (Operations), Islamabad, to entrust investigation of FIR No.101, dated 12.02.2025, registered under Sections 448, 511, 342, 380, 148, 149, 506(ii) & 452 PPC at Police Station Margalla, Islamabad, to *Mr. Ali Raza Qureshi*, ASP/SDPO Margalla. Subsequently, by order dated 21.05.2025, compliance of the aforesaid direction was reiterated.

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2. *M/s. Malik Abdul Rehman, Ms. Sumaira Khursheed and Ch. Zulqarnain,* learned State counsel assisted by *Mr. Sajid Cheema*, DSP (Legal), submitted that the impugned orders are without lawful sanction, as Section 22-A(6)(ii), Cr.P.C., does not empower an Ex-Officio Justice of Peace to dictate the nomination of a specific investigating officer or to exercise supervisory control over the investigative process. It was contended that such interference transgresses the jurisdictional limits, undermines the autonomy of the police hierarchy, and constitutes encroachment into the administrative domain. Thus, they submitted that the impugned orders are patently illegal, arbitrary, and without jurisdiction, hence are liable to be set aside.

3. Learned counsel for respondent No.1, on the other hand, supported the impugned orders and argued that the purpose of invoking jurisdiction under Sections 22-A & 22-B, Cr.P.C. was to ensure a fair and impartial investigation, which is a fundamental right of an accused as well as the complainant. It was contended that the order was aimed at safeguarding transparency, not interfering with the police hierarchy, and thus calls for no interference by this Court.

4. Heard. A careful perusal of the record reflects that FIR No.101 dated 12.02.2025 was registered at Police Station Margalla, Islamabad, on the complaint of Muhammad Nasir. The respondent-accused (*Mustafa Iqbal)*, thereafter, moved an application before the SSP (Investigation), Islamabad, for transfer of investigation, followed by an application under Sections 22-A&B Cr.P.C before the learned Additional Sessions Judge-IX, Islamabad

(West)/Ex-Officio Justice of Peace. The said application was allowed, vide order dated 08.03.2025, with direction to entrust the investigation to Mr. Ali Raza Qureshi, ASP/SDPO Margalla. The SSP (Investigation) Islamabad, due to the transfer of the said officer, assigned the case to another officer. However, on 21.05.2025, the learned Justice of Peace issued further directions for compliance of the earlier order dated 08.03.2025, insisting on entrusting the matter to the said named officer and sought an explanation from the SSP (Investigation), Islamabad. It would be appropriate to reproduce the relevant para of the impugned order dated 08.03.2025:

> "It is worth mentioning that fair investigation in a case is the right of both the parties to the litigation, and if the petitioner is not satisfied with the investigation already carried out, then demand of the day is that to redress his grievance. Hence, in the attending circumstances application is allowed. The SSP Operations, is directed to entrust the investigation of FIR No.101/25 dated 12.02.2025 u/s 506(ii) 452, 448, 511, 342, 380, 148, 149 PPC, P.S Margalla Islamabad, to ASP/SDPO Mr. Ali Raza Qureshi."

5. From perusal of the findings recorded hereinabove, it is manifest that the directive of the learned Ex-Officio Justice of Peace requiring the SSP (Operations), Islamabad, to entrust the investigation of FIR No.101/2025 specifically to ASP/SDPO Mr. Ali Raza Qureshi, does not fall within the lawful parameters of Section 22-A(6), Cr.P.C. For convenience, the said provisions are reproduced hereunder:-

> **Section-22-A(6).** An ex-officio Justice of the Peace may issue appropriate directions to the police authorities concerned on a complaint regarding;

i) Non-registration of criminal case;
ii) Transfer of investigation from one police officer to another; and
iii) Neglect, failure or excess committed by a police authority in relation to its functions and duties."

6. The above-mentioned provisions abundantly make it clear that while an Ex-Officio Justice of Peace may, in appropriate circumstances, issue directions for transfer of investigation from one officer to another, the statute does not authorize such authority to dictate the name of a particular officer to whom investigation must be entrusted. The legislative intent is to provide a supervisory check to ensure fair investigation, not to confer a power of administrative control or appointment over the police force. Any interpretation otherwise would amount to enlarging the scope of Section 22-A(6), Cr.P.C. beyond its express language and settled judicial precedents.

7. The authority to assign or re-assign investigation to a particular officer vests exclusively in the competent police hierarchy, and any insistence upon nomination of a named officer constitutes an unwarranted intrusion into the executive domain. This view finds support from the principles laid down by the Hon'ble Supreme Court of Pakistan in *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (**PLD 2016 SC 581**), and subsequently reiterated in *Munawar Alam Khan v. Qurban Ali Mallano and others* (**2024 SCMR 985**), wherein it was cautioned that the provisions of Sections 22-A & 22-B, Cr.P.C., though beneficial, must not be misused or exercised in a mechanical manner.

Likewise, the Hon'ble High Court of Balochistan while dealing with identical case, in *Mir Wais v. Naseebullah and others* (**2024 MLD 462**) has observed that proceedings before a Justice of Peace are quasi-judicial in nature and not executive or administrative, and thus must remain confined within the defined contours of law.

8. The reiteration of the earlier direction through the subsequent order dated 21.05.2025, despite the transfer of the said officer, further demonstrates a departure from the limits prescribed under Section 22-A(6), Cr.P.C., and an overreach into matters squarely falling within the administrative discretion of the police authorities. The police, being an executive organ of the State, is mandated to conduct investigation independently, and judicial interference in the operational aspect of assigning officers undermines that independence and carries the risk of eroding confidence in the impartiality of the investigative process.

9. In view of the foregoing discussion and the law laid down by the superior courts, the instant petition is **allowed.** The impugned orders dated 08.03.2025 and 21.05.2025, to the extent that they direct entrustment of investigation of FIR No.101/2025 to ASP/SDPO Mr. Ali Raza Qureshi by name, are hereby **set aside**. It is, however, clarified that nothing contained herein shall preclude the competent police authority from ensuring a fair and impartial investigation in accordance with law, including transfer of investigation from one officer to another, if deemed appropriate.

Pending application (s) also stand disposed of.

(MUHAMMAD ASIF)
JUDGE

APPROVED FOR REPORTING
BLUE SLIP ADDED

SHOAIB