

Form No. HCJD/C-121
ORDER SHEET
LAHORE HIGH COURT
MULTAN BENCH MULTAN
JUDICIAL DEPARTMENT

W.P.NO.8998 OF 2025

SYEDA MUSKAN ZAHRA Vs. **DISTRICT POLICE OFFICER and**
others.

S.No.of order / Proceeding	Date of Order/ Proceeding	Order with signature of Judge, and that of parties counsel, where necessary
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07.08.2025 Ms. Laraib Shan Rao, Advocate for the petitioner.

Learned counsel, at the very outset, seeks correction in the prayer clause in order to strike down word ‘illegal’ after ‘of’ and before ‘harassment’
Allowed accordingly.

2. The petitioner, claiming herself *sui juris*, contracted marriage with one Nasir Abbas son of Ashiq Hussain on 04th August, 2025 but against the wishes of her parents and other family members (Respondents No.4 to 13). It is claim of the petitioner that on attaining the knowledge, said respondents started threatening the petitioner and in furtherance thereof, joined hands with police officials (Respondents No.2 & 3), who on their instigation, are causing harassment to the petitioner and her husband. The petitioner, thus, seeks writ of *mandamus* against respondents No.2 & 3 to remain within four corners of law and not to create any kind of harassment and humiliation to her and her husband at the behest of respondents No.4 to 13.

3. I have heard learned counsel for the petitioner at considerable length.

4. Learned counsel for the petitioner, when confronted with the judgment in KHIZER HAYAT and

others versus INSPECTOR-GENERAL OF POLICE (PUNJAB), LAHORE and others (PLD 2005 Lahore 470), submitted that this Court has ample powers to issue writ of *mandamus* despite availability of remedy before the Ex-Officio Justice of Peace. As already observed, main grouse of the petitioner is against respondents No.2 & 3, who are police officials. In the year 1982, by amending existing Section 22 of the Code of Criminal Procedure, 1898 (hereinafter referred to as “Cr.P.C.”), the Provincial Government was empowered, by notifying in the official Gazette to appoint for such period as may be specified in the notification, and subject to such rules as may be made by it any person who is a citizen of Pakistan and as to whose integrity and suitability is satisfied, to be a Justice of Peace for a local area to be specified in the notification. Section 22-A of Cr.P.C. was then introduced through Gazette of Punjab Part-I, dated 30th October, 1985, wherein powers of Justice of Peace were outlined. Sub-Section (6) was, however, later on added by the Ordinance CXXXI of 2002, wherein an Ex-Officio Justice of Peace was authorized to issue appropriate direction to the police authorities concerned on a complaint regarding non-registration of criminal case, transfer of investigation from one police officer to another and neglect, failure or excess committed by a police authority in relation to its functions and duties.

5. Scope and object of Sections 22, 22-A, 22-B & 25 of Cr.P.C. came under discussion before a Larger Bench of this court in KHIZER HAYAT Case (*supra*), wherein after threadbare discussion, powers and functions of Justice of Peace were highlighted and for the case at hand, Paragraph 15 is quite relevant, which is reproduced as under:-

15. As regards the jurisdiction of an ex-officio Justice of the Peace regarding complaints about unjustified harassment by the police in the absence of any criminal case having been registered against the aggrieved person we may observe on the basis of our experience that more often than not such complaints are couched in vague, unspecific and generalized terms and sometimes such complaints are motivated with considerations other than *bona fide*. An ex-officio Justice of the Peace must remain watchful, alert and vigilant in this respect while handling all such complaints. It goes without saying that an allegation of fact levelled in such a complaint must contain all the necessary factual details regarding the date, time and place of the alleged harassment as well as full particulars of the concerned police officer who is being complained against. In the absence of such precision and exactitude in the complaint the relevant police officer, when required by the ex-officio Justice of the Peace to submit his comments, can remain contented with a bare and bald denial of the allegations leaving the ex-officio Justice of the Peace with no other option but to dismiss such a complaint as having remained unsubstantiated. However, if the complaint contains the necessary factual details and through his comments the relevant police officer fails to satisfy the ex-officio Justice of the Peace regarding falsity of the allegations levelled against him then the ex-officio Justice of the Peace may, depending upon the circumstances of the case, either warn the relevant police officer not to transgress the limits of the law in future or may issue a direction to the relevant higher police authority or the relevant Public Safety and Police Complaints Commission to consider the complaint and to take appropriate action against the delinquent police officer under the relevant provisions of the Police Order, 2002. In an extreme case of highhandedness and totally unjustified harassment the ex-officio Justice of the Peace may issue a direction to the relevant police authority to register a criminal case against the delinquent police officer if he had seemingly committed some cognizable offence during the harassment perpetrated by him.

In view of above noted observations, there remains no cavil that the petitioner has alternate remedy before the Ex-Officio Justice of Peace, which is neither illusory nor ineffective.

6. In addition to above, the Police Order, 2002 was promulgated on 14th August, 2002 so as to reconstruct and regulate the police. Perusal whereof reveals that the police officers/officials have been made answerable with regard to performance of their official duties and

in case of any negligence or omission, they not only have to face disciplinary proceedings but also to be confronted with conviction in the shape of imprisonment and fine as well.

7. There is no cavil that constitutional jurisdiction of High Court cannot be abridged merely on the ground that some alternate remedy is available to the writ petitioner but at the same time a person desirous to invoke the constitutional jurisdiction of High Court has to satisfy the Court that he is not possessed with any alternate, efficacious and adequate remedy provided under the law.

8. On the above touchstone, it is noticed that grievance of the petitioner, as agitated in the instant petition, can easily be remedied through a petition under Section 22-A of **Cr.P.C.** by the Ex-Officio Justice of Peace or even she can approach the concerned authorities under the Police Order, 2002 against respondents No.2 & 3.

9. It is an oft repeated principle that the High Court shall not exercise its writ jurisdiction in the cases where the petitioner has access to an equally efficacious and adequate alternative remedy under the law. The doctrine of exhaustion of remedies not only ensures that statutory forums are respected but also prevents unnecessary burden on constitutional courts. Nobody can be allowed to bypass or circumvent the natural course of law by avoiding to avail remedy provided thereunder and to invoke constitutional jurisdiction of this Court. Even otherwise in presence of alternate remedy, the petitioner desirous of invoking the constitutional jurisdiction of High Court is obliged to demonstrate to the satisfaction of the Court that such

remedy is only illusory and not adequate at all. Needless to observe that the constitutional jurisdiction is not to be exercised merely on account of purported inconvenience to a party in approaching the relevant forum. It is an extra ordinary jurisdiction which is only to be exercised in rare and exceptional cases but not as per convenience of the parties. It is noticed that now a days, a trend has developed to bypass the alternate remedies and instead to approach the High Court in constitutional jurisdiction, which on the one hand absolve the relevant forum from performing its functions and duties and on the other, unnecessarily burdened the docket of the High Court and as such, deprives the litigants, who have their genuine causes to lay before the High Court. The constitutional jurisdiction should not be exercised at the whims of the parties as run of the mill case. Guidance in this respect can be sought from MUHAMMAD ABBASI versus S.H.O. BHARA KAHU and 7 others (PLD 2010 Supreme Court 969) and TAUFIQ ASIF and others versus General (Retd.) PERVEZ MUSHARRAF and others (PLD 2024 Supreme Court 610).

10. This petition is bereft of any merits as such it is *dismissed in limine*, leaving the petitioner to avail alternate remedies.

(MIRZA VIQAS RAUF)
JUDGE

Sajjad

APPROVED FOR REPORTING

JUDGE