

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc Application No.S-28 of 2025.

Muhammad Ali
v.
SSP, Hyderabad & others.

Applicant : Muhammad Ali through Ms. Shabana Qureshi,
Advocate.

Respondent No.3 : Through Mr. Ameer Hyder Khoso, Advocate.

The State : Through Mr. Siraj Ahmed Bijarani, A.P.G.

Date of hearing : 08.05.2025.

Date of Decision : 08.05.2025.

ORDER

Miran Muhammad Shah, J:- Through this Cr. Misc Application, the applicant Muhammad Ali has impugned the order dated 11.01.2025 passed by learned Additional Sessions Judge-III/Ex-Officio Justice of Peace, Hyderabad in Cr. Misc Application No.82 of 2025, which Application filed by applicant for lodgment of FIR as well as legal protection against proposed accused/respondents No.3 to 5 was dismissed to the extent of FIR, however, legal protection was granted.

2. The learned counsel for the applicant argued that the impugned order is against the law & facts as well as misreading and non-reading of the reports and material available before learned trial Court, therefore, the same should be set-aside; that the learned Ex-Officio Justice of Peace had failed to apply judicial mind while passing the impugned order; that prima facie a case of cognizable offence is made out against the private respondents, but the learned trial Court had failed to assess the material and had passed the impugned order, which is against the law. Lastly, he prayed that the application may be allowed and order for lodgment of FIR against private respondents may be passed.

3. The learned counsel for respondent No.3 as well as learned A.P.G for the State fully supported the impugned order passed by the learned trial Court and prayed for dismissal of the application in hand.

4. Heard & perused.

5. Before discussion further, I feel it appropriate to reproduce the relevant portion of the impugned order passed by the learned Additional Sessions Judge-III/Ex-Officio Justice of Peace, Hyderabad as under;

"From perusal of record, it appears that prior to this, applicant also filed Cr. Misc. Application No.788 of 2024, U/S. 491 Cr.PC, showing proposed accused No.1 as detenue, which was entrusted to this Court wherein proposed accused No.1/detenue appeared and got recorded her statement wherein she clearly stated that applicant had pronounced divorce to her, therefore, she contracted second marriage to one Guldar and due to said marriage, applicant being ex-husband and others are causing harassment and her statement of pronouncement of divorce is also supported with divorce deed dated 10.09.2024 submitted by respondent No.2 alongwith his report. Since the disclosure of applicant does not prima-facie make out a cognizable offence, the request of applicant for lodgment of FIR is refused while legal protection sought for, being constitutional guaranteed right, is allowed issuing directions to respondent No.2 to ensure the same to applicant according to law under intimation to this court within seven days of receipt of this order. However, let it be clarified that the said protection will not affect the merits of above dispute nor it will be used or covered as shelter and umbrella to avoid any present or future liability with regard to above or any other dispute/case. Application stand disposed of accordingly.

6. I have heard both the counsels for the applicant as well as the respondent and so also the learned A.P.G. It has come on record that number of litigations had taken place between the two parties. Once an application U/s 491 Cr.P.C was also filed by the present applicant against the same respondent, where he stated that the respondent No.3 is detenue in the case and prayed for the production of her as being his legally wedded wife, however, when this matter is taken up before the learned trial Court the alleged detenue/respondent No.3 in that matter categorically stated that she was not under any illegal confinement and was living with her parents of her own free will and she had also stated that she had obtained divorce from the applicant Muhammad Ali (who is also the applicant in this matter) and she

has solemnized her marriage with one Gulzar Ahmed who is respondent No.4 in the present case. Such documents of her Nikah and of divorce were filed. Again such documents have been filed before this Court by the respondent No.3 & 4 through their counsel, however, the present applicant again in a desperate attempt filed another application U/s 22A&B Cr.P.C praying for lodgment of FIR against respondent No.3 & 4 stating therein that the respondent No.3 & 4 are consummating marriage, which is an illegal and against the *sharia*.

7. However, in my opinion the present applicant is consistently on the back of his ex-wife and does not want her to live her free and happy life. Since respondent No.3 is a Sui Juris and holds the right of living free life of her own as per her fundamental right envisaged in the fundamental rights of the Constitution of Islamic Republic of Pakistan 1973. No person can be allowed to pursue someone consistently by using the Court process. The Courts are established for the purpose of providing protection to people of this country and not to allow any uncalled for harassment to any citizen. The present application is of frivolous nature and only to intimidate the respondent No.3 & 4 and cannot be entertained at any cost, therefore, I am of the opinion that the impugned order dated 11.01.2025 passed by learned Additional Sessions Judge-III/Ex-Officio Justice of Peace, Hyderabad in Cr. Misc Application No.82 of 2025 bears no illegality, therefore, such order is upheld and present Cr. Misc Application No.S-28 of 2025 filed by present application is **dismissed**.

JUDGE

ALI.