

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Miscellaneous Application No.S-319 of 2020

Applicants : Ahad Khoso s/o Soonharo Khan and Razique Dino Hemopoto s/o Sulleman through Syed Shahzad Shah, advocate.

Respondents No.1 to 3 : Through Mr. Irfan Ali Talpur, Deputy Prosecutor General, Sindh.

Respondent No.4 : Mst. Sagheeran through Mian Taj Muhammad Keerio, advocate.

Date of hearing : 06.08.2025
Date of order : 22.08.2025

ORDER

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application, the applicants have impugned the order dated 15.07.2020, whereby Criminal Miscellaneous Application No.508 of 2020 under Sections 22-A and 22-B, Cr.P.C., for registration of second FIR of the same incident filed by respondent No.4, was allowed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Matiari. Being aggrieved by the said order, the applicants have preferred the instant application.

2. Facts as per record are that both the parties to the lis inter se related and have dispute over agricultural land. The respondent No 4 alleged that on 24.06.2020 ,she with other family members namely Raza Muhammad, Abdul Sattar, Abdul Haque, M. Mehboob Ali, Abdul Munawar, Mst. Zeenat, Mst. Rukhsana, Mst. Shahida, Imran, Rahim Bux and others were present at the house meanwhile at about 08.30 a.m. proposed accused namely Razique Dino, Khadim Hussain, Ahad Khoso, Ghulam Nabi, Shoukat, Hafiz@ Sharif, Nadeem, Nadir, Amir Sher Ali ,Wale Dino and females entered into the house, attacked upon them and caused hatchet, butt, and stick blows with intention to kill the respondent No. 4 party, thereafter they all went away.

3. Learned counsel for the applicants, at the very outset, submitted that the impugned order, passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Matiari, is illegal, having been rendered without due application of judicial mind and in disregard of the law laid down by the Hon'ble Supreme Court of Pakistan in the case of *Sughran Bibi v. The State* PLD2018 SC 595 ; that earlier, Mst. Zahida, wife of Khadim Hussain Khoso,(applicants party) had lodged FIR No. 37 of 2020 at Police Station Shahpur for offences punishable under

Sections 324, 147, 148, 149, and 504, PPC, against the husband of respondent No.4 and others; that the respondent No 4 with the mala fide object of pressurizing and blackmailing the applicants into withdrawing their claim over the disputed agricultural land actuated by existing enmity, fabricated a false narrative by alleging an incident dated 24.06.2020; that in view of the dictum laid down by the Hon'ble Supreme Court in the aforesaid *Sughran Bibi* case, a second FIR is impermissible where the complainant merely furnishes another version of the same occurrence; Concluding, he prayed that impugned order may be set aside.

4. Conversely, learned counsel for respondent No.4 supported the impugned order, asserting that it is a well-reasoned determination passed strictly in accordance with law; that it does not disclose any element of illegality, procedural impropriety, or factual infirmity warranting interference by this Court.

5. The learned Deputy Prosecutor General for the State submitted that the dispute inter se the parties pertains to agricultural land and that they are related to each other; that on 24.06.2020, a quarrel took place between them, wherein the applicants' side sustained serious injuries; that both parties thereafter appeared at Police Station Shahpur, where they were issued police letters for medical examination; that respondent No.4 Mst. Sagheeran subsequently approached the said police station for registration of an FIR against the applicants; however, the medical certificate issued by the Taluka Hospital, Matiari, did not disclose the commission of any cognizable offence, and thus, no FIR was registered at Police Station Shahpur against the applicants

6. The record reflects that FIR No. 37 of 2020 was registered at Police Station Shahpur on 30.06.2020 against the husband of respondent No.4, namely Abdul Sattar, and others, on the complaint of Mst. Zahida from the applicants' side. In the said FIR, it was alleged that on 24.06.2020, at about 8:30 a.m., the complainant/respondent No4 along with her family members, was present at her residence when accused Abdul Sattar (husband of respondent No.4), accompanied by his co-accused duly armed with weapons, attacked the applicants' party, as a result whereof they sustained injuries. Consequently, the aforementioned FIR was lodged. Conversely, in Criminal Miscellaneous Application No. 508 of 2020, respondent No.4 asserted that on the same date and time, the applicants' party, also armed with weapons, trespassed into their house and inflicted hatchet, butt, and stick blows upon the respondent No 4 side, resulting in injuries. It is, thus, manifest that both versions pertain to the same alleged occurrence, albeit narrated from opposing perspectives. This version, however, was available to respondent No.4 at the time when the investigation of FIR No. 37 of 2020 was underway. Despite this, she did not record her statement before the investigating officer; instead, she chose to move an application before

the learned Justice of Peace for registration of a fresh FIR concerning the same occurrence, which was allowed vide order dated 15.07.2020. Such course of action, in view of the dictum laid down in *Sughran Bibi* is not permissible in law.

7. The Hon'ble Supreme Court, in supra case of *Sughran Bibi v. The State*, in Paragraph 27 of the judgment, held as follows:-

"27. As a result of the discussion made above we declare the legal position as follows:

(i) According to section 154, Cr.P.C. an FIR is only the first information to the local police about commission of a cognizable offence. For instance, an information received from any source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard.

(ii) If the information received by the local police about commission of a cognizable offence also contains a version as to how the relevant offence was committed, by whom it was committed and in which background it was committed then that version of the incident is only the version of the informant and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth.

(iii) Upon registration of an FIR a criminal "case" comes into existence and that case is to be assigned a number and such case carries the same number till the final decision of the matter.

(iv) During the investigation conducted after registration of an FIR the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161, Cr.P.C. in the same case. No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.

(v) During the investigation the investigating officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and, as required by Rule 25.2(3) of the Police Rules, 1934 "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."

(vi) Ordinarily no person is to be arrested straightaway only because he has been nominated as an accused person in an FIR or in any other version of the incident brought to the notice of the investigating officer by any person until the investigating officer feels satisfied that sufficient justification exists for his arrest and for such justification he is to be guided by the relevant provisions of the Code of Criminal Procedure, 1898 and the Police Rules, 1934. According to the relevant provisions of the said Code and the Rules a suspect is not to be arrested straightaway or as a matter of course and, unless the situation on the ground so warrants, the arrest is to be deferred till such time that sufficient material or evidence becomes available on the record of investigation prima facie satisfying the investigating officer regarding correctness of the

allegations levelled against such suspect or regarding his involvement in the crime in issue.

(vii) Upon conclusion of the investigation the report to be submitted under section 173, Cr.P.C is to be based upon the actual facts discovered during the investigation irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person.”

8. From the foregoing narrative, it is evident that the allegations advanced by respondent No.4 in Criminal Miscellaneous Application No. 508 of 2020 are but a counter-version of the incident already reported in FIR No. 37 of 2020, as every incident or occurrence, irrespective of the multiplicity of versions or narratives, there shall be only one FIR, and any divergent or conflicting account of the same incident is to be recorded under Section 161, Cr.P.C., during the course of investigation, rather than through the registration of a fresh FIR.

9. In the present matter, since both parties admit that the alleged occurrences took place on the same date, at the same time, and between the same individuals, albeit with differing accusations, the registration of a second FIR would be in direct contravention of the aforesaid dictum. Consequently, the proper course was to incorporate the counter-allegations of respondent No.4 into the investigation of the existing FIR, instead of initiating a separate criminal case

10. In view of the above facts and circumstances this Court finds that, the case of the present applicants squarely falls within the parameters laid down by the Hon'ble Supreme Court of Pakistan in the aforesaid *Sughran Bibi* case, particularly as enunciated in Paragraph 27, clauses (iv), (v), and (vii) of the said judgment. Accordingly, the instant application is allowed, and the impugned order dated 15.07.2020, passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Matiari, is hereby set aside.

11. However, respondent No.4 shall be at liberty to approach the investigating officer, who may record her statement under Section 161, Cr.P.C., and proceed further in accordance with law. In the event that the investigating officer collects evidence disclosing the commission of any offence, he shall be competent to submit a fresh report before the learned Magistrate concerned.

J U D G E

Irfan Ali