

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

**Crl. Misc. A. No.S-312 of 2017.**

Miss Tabassum Naz. . . . .Applicant.

Versus.

Province of Sindh and others. . . . .Respondents.

Mr. Meer Ahmed Mangrio, Advocate for the applicant.

Mr. Shahid Ahmed Shaikh, DPG alongwith DSP Nizar Muhammad and ASI Liaquat Ali.

Mr. Shaukat Ali Pathan, Advocate for proposed accused No.1 to 3.

Date of hearing and order: 20.06.2018.

**ORDER**

**IRSHAD ALI SHAH, J.-.**The facts in brief, necessary for disposal of instant criminal miscellaneous application, as per applicant, are that the proposed accused being police officials by committing trespass in her house took away her brothers Zeeshan Haider and Rashid Ali alongwith her household articles, as are detailed in her application. On account of refusal by the police to record her FIR, she filed application under section 22-A & B Cr.P.C. before the learned Sessions Judge / Ex-Officio Justice of Peace, Kotri, for seeking such direction. It was also dismissed by way of an order dated 18.09.2015, which the applicant has impugned before this Court by way of instant criminal miscellaneous application.

2. It is contended by the learned counsel for the applicant that the learned Sessions Judge / Ex-Officio Justice of Peace, Kotri, has dismissed the application under section 22-A & B Cr.P.C. of the

applicant without any justification, otherwise police is under lawful obligation to record the FIR of the incident on disclosure of cognizable offence. By contending so, he sought for direction against the police to record FIR of the applicant at her verbatim.

3. It is contended by the learned counsel for the proposed accused that the applicant intended to involve the police officials in false case only to save her brothers and son, who are bad character persons. By contending so, he sought for dismissal of the instant criminal miscellaneous application.

4. Learned APG was fair enough to state the applicant has an alternate and adequate remedy to exhaust by way of filing a direct complaint before the Court having jurisdiction.

5. I have considered the above arguments and perused the record.

6. The alleged incident as per applicant, took place on 03.08.2015, she sought for direction for recording her FIR by filing of such application on 19.08.2015, with delay of 16 days, such delay could not be lost sight of. The report of the police, which was furnished before the learned Sessions Judge / Ex-Officio Justice of Peace, Kotri, was to the effect that no incident as alleged by the applicant has taken place. Such report of the police apparently has not been rebutted by the applicant by way of filing her counter affidavit or objections thereto, which appears to be significant. If for the sake of arguments, it is believed that the allegation leveled by the applicant against the proposed accused is not false and for that her FIR is not being recorded by the police then there could be no denial to the fact that the applicant has an alternate and adequate remedy to exhaust in shape of filing a

direct complaint before the Court having jurisdiction. In these circumstances, the learned Sessions Judge / Ex-Officio Justice of Peace, Kotri, by dismissing the application of the applicant for recording her FIR has committed no wrong, which could be made right by this Court by way of instant criminal miscellaneous application under section 561-A Cr.P.C. It is dismissed accordingly.

J U D G E

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