

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH CIRCUIT COURT**  
**HYDERABAD**

Criminal Miscellaneous Application No.S-396 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA No.5974/2021.
2. For orders on office objections.
3. For orders on M.A.No.5975/2021.
4. For hearing of main case.

04.08.2021.

Mr. Zahid Mallah, Advocate for the applicant.

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1. Disposed of.

2to4. It is the case of the applicant that the proposed accused had maltreated and threatened him to be killed, if he failed to vacate the house in his possession. Allegedly, on account of refusal of the police to record his F.I.R, the applicant filed an application under section 22-A & B Cr.P.C for issuance of direction to police to record his F.I.R for the above said incident. It has been dismissed by learned 9<sup>th</sup> Additional Sessions Judge/Ex-Officio Justice of Peace Hyderabad vide his order dated 31.05.2021 which is impugned by the applicant before this Court by way of instant application u/s: 561-A Cr.P.C.

It is contended by learned counsel for the applicant that a cognizable offence has taken place, therefore, learned Ex-Officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order. By contending so, he sought for direction against the police to record the F.I.R of the applicant for the above said incident.

I have considered the above arguments and perused the record.

Admittedly, the parties being disputed over family affairs are also disputed over possession of house. If the allegation leveled by the applicant is examined in context of existing dispute between the parties, then *prima facie*

it suggests that the applicant is putting an attempt to resolve his dispute with the proposed accused by involving them in a false criminal case malafidely.

5. In case of Rai Ashraf and others Vs. Muhammad Saleem Bhatti and others (PLD 2010 SC-691), it has been held by the Hon'ble Apex Court that;

*“ Validity---Dispute between parties was over such house---Applicant had secured restrain, order against respondent from Civil Court, and for its violation, he had a remedy before Civil Court---Applicant had an alternate remedy to file private complaints against respondent--- Applicant had filed another application before Ex-officio Justice of Peace/Additional Sessions Judge to restrain public functionaries from taking action against under Lahore Development Authority Act, 1975, Rules and Regulations framed thereunder---Application for registration of FIR had been filed with malafide intention.”*

6. No illegality in impugned order even otherwise is pointed out by learned counsel for the applicant which may justify this Court to make interference with it, in exercise of its inherent jurisdiction by way of instant Crl. Misc. Application u/s: 561-A Cr.P.C, it is dismissed in *limine* together with listed application. However, the applicant may exhaust remedy u/s:200 Cr.P.C if so is advised to him.

JUDGE