

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No.S- 31 of 2021

Date	Order with Signature of Hon'ble Judge
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Hearing of case

1. For orders on office objection at flag 'A'
2. For hearing of main case
(Notice issued)

02.04.2021

Mr. J.K Jarwar Advocate for the applicant
Mr. Mansoor Hussain Maitlo Advocate for proposed accused
Mr. Shafi Muhammad Mahar, DPG for the State

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Aftab Ahmed Gorar, J:- The applicant by way of instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C, has impugned the order dated 06.01.2021 passed by learned Ex-Officio Justice of Peace / 2nd. Additional Sessions Judge, Naushahro Feroze, on application under Section 22-A and 22-B Cr.P.C, whereby he has dismissed the application of applicant.

2. The facts in brief necessary for disposal of instant Criminal Miscellaneous Application are that the applicant filed a criminal miscellaneous application u/s 22-A and B Cr.P.C seeking direction against SHO Police Station Halani to record his FIR against the proposed accused, that the father of applicant was murdered by the proposed accused and such FIR bearing Crime No.129/2020 under Sections 302 etc. PPC is pending trial before the competent Court, whereas, the proposed accused used to threaten the applicant to withdraw from the said murder, but he did not accept their forcible demand. It is alleged that on 05.12.2020, the applicant along with his

brother Muhammad Khan and Ghulam Muhammad and other family members were available, when at about 5:00 pm, the proposed accused Mehar with Gun, Ghanwar with pistol, Ghulam Ali, Mukhtiar Ali with lathies, Irfan with hatchet along with two unknown persons intruded into his house, out of them proposed accused Mehar instigated his other accomplices, hence all the proposed accused untied two goats from the cattle-shed, robbed cash of Rs.50000.00, one pair of Leelam, five Cots with bed and sewed and un-sewed clothes of women, thereafter went away while issuing threats for withdrawing from the murder case. Thereafter on approach the SHO refused to record his statement, hence the applicant filed the application before the Sessions Judge / Ex-Officio Justice of Peace seeking directions, but the same was dismissed vide impugned order dated 06.01.2021, giving rise to the present application.

3. It is contended by learned counsel for the applicant that the proposed accused on the force of weapons intruded into the house of applicant, issued threats for withdrawing from the murder case of his father, then robbed two goats, cash, One pair of Leelam, Cots, Beds, sewed and un-sewed clothes of women; that the proposed accused have committed a cognizable offence, therefore, they are liable to be prosecuted in accordance with law; that the learned Ex-Officio Justice of Peace has not considered the actual facts and material produced by the applicant but only has given weight to the stance taken by the private respondents that there is dispute over plot; that the learned Ex-Officio Justice of Peace/ Additional Sessions Judge Naushahro Feroze ought to have directed the SHO Police Station Halani for registration of FIR against the proposed accused for assaulting and committing robbery and issuing threats to the applicant party. He lastly prayed that the impugned order may be

set-aside and the SHO Police Station Halani may be directed to record the statement of the applicant u/s 154 Cr.P.C.

4. Learned DPG for the State and learned counsel for the proposed accused by supporting the impugned order sought for dismissal of the instant criminal miscellaneous application by contending that there is dispute between the applicant and proposed accused over the plot, whereas, the applicant intends to drag the proposed accused in false criminal litigations and he has roped almost 05 members of one and same family and infact no such incident has taken place.

5. I have heard the learned counsel for the applicant, proposed accused as well as learned Deputy Prosecutor General for the State and perused the record. Admittedly, the applicant and the proposed accused are disputing each other over the plot. In these circumstances, the learned Additional Sessions Judge / Ex-Officio Justice of Peace has rightly passed the impugned order. The relevant portion of the impugned order is reproduced as under;

"I have heard arguments of learned counsel for the applicant and perused the material available on record. The DSP Complaint Redressal Cell Naushahro Feroze has submitted that there is dispute between the parties over a plot and both the parties have registered cases against each other, which are pending trial and due to such annoyance applicant has filed instant application only in order to pressurize proposed accused. In these circumstances, I am of the view that the applicant with malafide intention intends to lodge the false FIR against the proposed accused persons in order to put pressure upon them, as there is dispute between the applicant and proposed accused over a plot. It is pertinent to mention here that it is general practice of the people to settle the matters on their wishes and

use to file such application before Ex-Officio Justice of Peace against their opposite party to pressurize and disgrace them in society.”

6. In view of the above, the learned counsel for the applicant has failed to point-out any illegality or irregularity in the impugned order, accordingly, the instant Criminal Miscellaneous Application is dismissed.

Judge

ABBROHI