

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Misc. Appl. No.508 of 2024
(Zuhaib Akhtar v. Muhammad Mohtashim Mirza and others)

Date	Order with signature of Judge
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| 1. For orders on MA No.6433/2024 | |
| 2. For orders on office objection & reply of Adv. at Flag A | |
| 3. For orders on MA No.6434/2024 | |
| 4. For hearing of main case | |

17.05.2024

Mr. Dhani Bux, advocate for the applicant

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1. Urgency granted.
2. Deferred.
3. Granted subject to all just exceptions.
4. Based on the allegation of a trespass in his apartment, the applicant by making an application u/s 22-A/B Cr.PC sought the direction against SHO PS Soldier Bazar Karachi to record his statement for purpose of FIR against the proposed accused; it was dismissed by learned Vith- Additional Sessions Judge Karachi East / Ex-Officio Justice of Peace vide order dated 16.04.2024, which is impugned by the applicant before this Court by making the instant application u/s 561-A Cr. PC.

It is contended by learned counsel for the applicant that the 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 the impugned order, therefore, being illegal is to be examined by this Court.

Heard arguments and perused the record.

The dispute between the parties is over possession of the apartment; such dispute being civil as per the impugned order the applicant intends to resolve by converting the same into criminal malafidely. In these circumstances, the learned Ex-Officio Justice of Peace was right to dismiss the application of the applicant by way of the impugned order, which is not found illegal to be interfered with by this Court.

In the case of *Rai Ashraf and others vs Muhammad Saleem Bhatti and others* (PLD 2010 SC 691), it has been held by Apex Court that;

“The learned High Court had erred in law to exercise discretion in favour of the respondent No.1 without realizing that the respondent No.1 had filed application before the Additional Sessions Judge/Ex-Officio Justice of the Peace to restrain the public functionaries not to take action against him in accordance with the LDA Act 1975, Rules and Regulations framed thereunder, therefore, respondent No.1 had filed petition with mala fide intention and this aspect was not considered by the learned High Court in its true perspective.”

Consequent to the above discussion, the instant Crl. Misc. Application is dismissed *limine*.

J U D G E