

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD4

Criminal Miscellaneous Application No.S-283 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For order on office objection.
- 2. For hearing of main case.

14-04-2025

Mr. Irfan Ali Khaskheli advocate for applicant.

Mr. Irfan Ali Talpur D.P.G. Sindh.

Mr. Muhammad Jameel Ahmed advocate for respondent No.2.

Statements submitted by learned counsel for the applicant along with criminal record of respondent No.2, taken on record.

RIAZAT ALI SAHAR J:- Through this criminal miscellaneous application, learned counsel for the applicant has impugned the order dated 07.05.2024, whereby the learned Sessions Judge/Ex-Officio Justice Peace, Shaheed Benazirabad has allowed the application, filed by the respondent No.2 in terms of section 22-A-6 (i) Cr.P.C. seeking direction to lodge the FIR. Hence, the applicant has filed this criminal miscellaneous application.

2. The brief facts leading to this criminal miscellaneous application, as stated by respondent No. 2 in his application, are that on 15.03.2024, he, along with Ansar Ali, Nadir Ali and Haris, went to his land. At about 05:00 p.m., all the proposed accused, including the applicant herein, allegedly arrived at the scene armed with deadly weapons. They started aerial firing to create terror and panic among the respondent’s party and in the surrounding locality. It is further alleged that the accused, under the threat of weapons, attempted to forcibly dispossess respondent No. 2 and his companions from the land and also took away 20 bags of wheat in a Pickup. During the incident, they reportedly issued threats of dire consequences to respondent No. 2, stating that since a revision application was pending before the Court, if he or his associates returned to the land

again, they would not be spared, and their murder would be committed, with their bodies buried in the land and booked falsely respondent No. 2, his family members, and other well-wishers in fabricated cases.

3. Notice of this application was issued to the respondent as well as learned A.P.G. Sindh.

4. Learned counsel for the applicant contends that the application under section 22-A (6) (i) Cr.P.C. being Criminal Miscellaneous Application No.S-600 of 2024 was filed by respondent No.2 before the learned Sessions Judge/Ex-Officio Justice of Peace, Shaheed Benazirabad after concocting a false and fabricated story. He further contends that the respondent No.2 levelled general and vague allegations otherwise there is a civil dispute between the parties and in this regard the applicant has annexed ownership documents along with instant application. He also points out that the Deputy Superintendent of Police, Complaints Cell, SSP Office Shaheed Benazirabad also submitted a report before the learned Justice of Peace wherein he has elaborately stated that SHO PS Mirzapur conducted inquiry and found that there is a dispute between the parties over ownership of agricultural land. He further points out that in the said report, it is also reported that the respondent No.2 due annoyance filed the said application. He refers such report available at page-37 of the court file. He further contends that despite of such report submitted by police, the learned Ex-Officio Justice of Peace passed the impugned order without affording a fair hearing and providing opportunity to respond. He further contends that in order to avoid false and frivolous litigation, Ex-Officio Justice of Peace to not only hear the parties but also consider their submissions. He contends that the impugned order is passed without applying proper mind, as such, it is not sustainable under the law and prays to set aside the impugned order.

5. On the other hand, learned D.P.G. concedes that there is civil dispute between the parties. Whereas, learned counsel for the respondent No.2 disputes the contentions raised by the learned

counsel for the applicant. He contends that the criminal and civil disputes cannot be mixed with each other and in the instant case, the applicant party attached upon the respondent No.2 and others which is criminal in nature, therefore, the learned Ex-Officio Justice of Peace has rightly passed the impugned order. He, therefore, prays for dismissal of instant application.

6. I have heard learned counsel for the applicant, learned D.P.G. Sindh, learned counsel for respondent No.2 and perused the available record.

7. From the perusal of the record it is evident that the dispute between the applicant party and respondent No.2 primarily arises over agricultural land. The very nature of the allegations levelled in the application filed under Section 22-A (6) (i) Cr.P.C. by respondent No.2 indicates a backdrop of deep-seated civil controversy which, in essence, cannot be resolved by invoking the criminal machinery through the registration of FIR, particularly where the allegations lack specificity and are general and vague in nature.

8. It is a settled principle of law that criminal proceedings cannot be allowed to be used as a tool for settling personal scores or for arm-twisting in civil disputes. In the present case, the respondent No.2's application appears to be an attempt to transform a civil dispute into a criminal one. The report submitted by the police, particularly by the SHO PS Mirzapur through the DSP Complaints Cell, clearly reflects that a thorough inquiry was conducted, during which it was found that the dispute is essentially over the ownership of land and no cognizable offence was made out.

9. The use of Section 22-A (6) (i) Cr.P.C. is only warranted in cases where there is a clear commission of cognizable offence and the police, despite having such knowledge, unlawfully refuses to register a case. More so, each case is to be decided by its own facts. In the instant case, the record suggests that the police acted responsibly, conducted a fair inquiry and submitted its findings, which did not support the version of respondent No.2. Furthermore,

the right to initiate criminal proceedings must not be exercised in a manner that results in abuse of process of law. It is incumbent upon courts to ensure that frivolous and baseless criminal applications are not entertained, particularly when they are twisted with disputes over property rights. Moreover, the criminal antecedents of respondent No.2, as submitted by the learned counsel for the applicant, reveal that he has previously been involved in seven criminal cases, including one pertaining to murder. Notably, this factual assertion regarding his criminal history remained uncontroverted by the opposing party, thereby lending credence to its authenticity and raising serious concerns regarding the bona fides of the complaint initiated by respondent No.2.

10. Considering the above facts and circumstances, the instant Criminal Miscellaneous Application is **allowed** and the impugned order passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Shaheed Benazirabad in Criminal Miscellaneous Application No. S-600 of 2024 is hereby **set aside**. However, the applicant is at liberty to approach the appropriate forum including Direct Complaint, is so he desires.

JUDGE