

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application Nos. 736 & 737 of 2024.

Applicant in : Shoukat Ali son of Jan Muhammad
Crl. Misc. Appl. 736/24

Applicant in : Ayaz son of Khuda Bakhsh
Crl. Misc. Appl. 737/24

Both represent through Mr. Muhammad Hanif
Advocate

Respondent No.1 : Ashraf son of Washdil
in Crl. Misc. App. 736/24 Through Mr. Muhammad Younus Advocate

Respondents : The State
Through Ms. Rubina Qadir, DPG Sindh.

Date of hearing : 13.05.2025.

Date of order : 15.05.2025.

ORDER

KHALID HUSSAIN SHAHANI, J:- Through these Criminal Miscellaneous Applications filed under Section 561-A Cr.P.C, the applicants have impugned the two different orders, as such applicant Shaukat Ali impugned the order in Cr. Misc. Application No.2030/2024 dated: 18.07.2024, whereby the learned Ex-Officio Justice of Peace/ADJ-VI was pleased to direct the SHO of P.S to record the statement of petitioner and to according to law and also provide the legal protection, while in the Petition No.2028/2024 filed by one Ayaz Ali, only the legal protection was allowed in his favor. However, both these applicants are members of one group and they have impugned both the different orders dated 18.07.2024 passed by the learned Additional Sessions Judge-VI/Ex-Officio Justice of Peace, Malir Karachi, in Criminal Miscellaneous Petitions Nos. 2030/2024 and 2028/2024 respectively.

2. The record reveals that in Cr. Petition No. 2030/2024, the learned Ex-Officio Justice of Peace directed the concerned SHO P.S. Sharafi Goth to record the statement of the petitioner (Ashraf) and act in accordance with law, if any cognizable offence was made out, and also to provide necessary legal protection. In the other Cr. Petition No. 2028/2024, filed by Ayaz Ali (relative of Shoukat Ali), the learned court declined the request for registration of FIR, while directing the SHO to ensure legal protection to the petitioner and to prevent any undue harassment.

3. Both applicants Shoukat Ali and Ayaz Ali now seek contradictory reliefs. While Shoukat Ali prays for setting aside the order passed in favour of Ashraf, Ayaz Ali seeks a direction for registration of FIR against the private respondents, despite the trial court's finding that no cognizable offence was made out in his case. It is pertinent to note that both applicants belong to the same group and are engaged in an ongoing land dispute with the private respondents. The record and police report reveal that multiple FIRs and Section 22-A/B petitions have been filed previously by both sides against each other, which were either disposed of under F.R.T.C. or declined for want of sufficient material.

4. Comments filed by SHO P.S. Sharafi Goth confirm that in compliance with the impugned order, the statement of Ashraf was recorded, from which offences under Sections 147/149/337-F(i) PPC were prima facie made out. The police has thus been directed to act accordingly by preparing a report under Section 155 Cr.P.C. for seeking permission of the concerned Magistrate.

5. The learned Ex-Officio Justice of Peace exercised jurisdiction cautiously and within the parameters settled by law. No procedural illegality, perversity, or mala fide can be discerned in the impugned orders which would justify interference by this Court under its inherent jurisdiction under Section 561-A Cr.P.C.

6. It is also an admitted position that the applicants and respondents have been embroiled in a longstanding dispute over 4/5 acres of land. The animosity between the parties is evident from their entanglement in multiple criminal proceedings, including FIR No. 12/2023 lodged against Ashraf and others, as well as separate FIRs bearing Nos. 13, 14, and 15 of 2023 under Section 23(1)(a) of the Sindh Arms Act. Moreover, both parties have instituted petitions against each other in various forums. Allowing the present applications in such circumstances would not only exacerbate the already strained relations between the parties but would also lead to a multiplication of litigation. It appears that the root cause of the discord is the aforementioned disputed land, and if the parties are genuinely aggrieved, they ought to seek appropriate remedy under the relevant civil laws rather than invoking criminal jurisdiction to settle what is essentially a civil dispute.

7. Insofar as the grievance of applicant Ayaz Ali is concerned, he is at liberty to avail the proper remedy as permissible under law, including the one delineated in the case of “Younas Abbas and others v. Additional Sessions Judge, Chakwal” (PLD 2016 SC 581), by approaching the Magistrate under Section 190 Cr.P.C, if advised so.

8. Consequently, both the listed applications are found to be without merit and are hereby dismissed. Let a copy of this order be transmitted to SHO P.S. Sharafi Goth for information and compliance, particularly for submission of report under Section 155 Cr.P.C. before the concerned Magistrate.

JUDGE