

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

Cr.Misc.Appl.No.S- 759 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGE
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13.02.2019.

Mr. Altaf Sachal Awan, Advocate for applicant.
Mr. Ashique Hussain D. Solangi, Advocate for respondent No.3.
Mr. Shahid Ahmed Shaikh, D.P.G. for the State.

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Through this Criminal Miscellaneous Application, the applicant seeks setting aside of order dated 21.12.2018 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Sehwan.

2. At the very outset, learned counsel for the applicant states that the order passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Sehwan is illegal and unlawful as the learned Judge has failed to consider that the respondent No.3 and his other relatives were involved in a number of cases and the applicant alongwith other police officers was performing his duty in accordance with law. He further contended that the respondent No.3 and his other relatives deterred the police party from discharging their lawful duties and blocked the road and the traffic was jammed and they also attacked upon the police party hence such FIRs were lodged against the applicant party. Lastly, he has prayed for setting aside of the impugned order.

3. On the other hand, learned counsel appearing for the respondent No.3 contended that the present applicant alongwith other police personnel in two police mobiles entered in the house of respondent No.3, injured the inmates of the respondent No.3 and taken away the valuable articles, gold ornaments as well as cash amount; that three FIRs have been registered against the respondent No.3 and his other relatives in order to save their skin; that the order passed by the learned Justice of Peace is a speaking order wherein the observation has also been made that if the version of applicant is found incorrect the proceedings u/s 182 Cr.P.C. be initiated against the applicant/respondent No.3.

4. Learned D.P.G. supported the order of the learned Justice of Peace.

5. Heard learned counsel for the parties and perused the material available on record. Admittedly, from perusal of the impugned order as well as contents of the application u/s 22-A & B Cr.P.C, it appears that serious allegations have been leveled against the applicant and other police officials who entered in the house of respondent and looted the valuable articles, gold ornaments and cash as well hence committed a cognizable offence. From perusal of the impugned order it further reflects that direction was issued in the impugned order that unless some tangible and credible material is not collected during investigation, the accused shall not be arrested with further direction that if the statement of the complainant is found incorrect, proceedings under section 182 Cr.P.C be initiated against the complainant/respondent No.3 hence in my humble view there is nothing wrong in the said order. Moreover, Section 154 Cr.P.C. provides a mechanism that if any person approaches the concerned Police Officer, he is to record former`s statement u/s 161 Cr.P.C. and if a cognizable offence is made, to enter the same in the book provided u/s 154 Cr.P.C and proceed in accordance with law.

6. I have minutely perused the impugned order and am of the considered view that there is no illegality or irregularity in that order which has been passed in a speaking manner after hearing both the parties and calling report from the concerned SHO, hence does not call for any interference by this Court. Accordingly, the instant Criminal Miscellaneous Application having no merits for consideration is hereby dismissed.

JUDGE

Tufail/PA