

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Application No.S- 299 of 2020

Date

Order with Signature of Hon'ble Judge

For orders on office objections.

For hearing of main case.

For hearing of MA-4326/2020

19-10-2020.

Mr. Samiullah Rind, advocate for applicant.

None for the private respondent.

Ms. Rameshan Oad, A.P.G for the State.

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Irshad Ali Shah, J; It is alleged by the private respondent that the applicant has attacked upon her husband Sain Bux Rahu with hammer and has also threatened him of dire consequences therefore, she on account of refusal by SHO PS Hala to record her FIR, by way of making an application u/s 22-A & B Cr.P.C sought for direction against SHO PS Hala to record her statement for purpose of FIR which was issued by learned Additional Sessions Judge/ Ex-officio Justice of Peace Hala vide his order dated 07.07.2020, which is impugned by the applicant before this Court by way of instant Criminal Misc. Application.

2. It is contended by learned counsel for the applicant that no offence as alleged by the private respondent has taken place and the private respondent is intending to involve the applicant in a false case in order to satisfy his enmity with him. By contending so, he sought for setting aside of the impugned order.

3. Learned D.P.G for the State by supporting the impugned order has sought for dismissal of the instant Crl.Misc.Application by contending that the narration made by the private respondent constitutes a cognizable offence.

4. I have considered the above arguments and perused the record.

5. As per SHO PS Hala the private respondent in order to save her husband and others in pending case is intending to involve the applicant in a false case. If it is so, then it constitutes an act of malafide on the part of the private respondent.

6. In case of ***Rai Ashraf & others vs. Muhammad Saleem Bhatti & others (PLD 2010 SC-691)***, it has been held by the Hon'ble Apex Court that;

“Validity---Dispute between parties was over such house---Applicant had secured restrain, order against respondent from Civil Court, and for its violation, he had a remedy before Civil Court---Applicant had an alternate remedy to file private complaints against respondent---Applicant had filed another application before Ex-officio Justice of Peace/Additional Sessions Judge to restrain public functionaries from taking action against him under Lahore Development Authority Act, 1975, Rules and Regulations framed thereunder---Application for registration of FIR had been filed with malafide intention.”

7. In view of above, the impugned order is set aside. The private respondent however may exhaust remedy under section 200 Cr.PC, if so is advised to her.

8. The instant Crl.Misc.Application is disposed of accordingly.

Judge

Ahmed/Pa,