

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.  
Cr. Misc. Appln. No.S- 763 of 2020

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

27.01.2021.

Mr. Muhammad Imran Arain, Advocate for applicant.  
Ms. Sobia Bhatti, A.P.G for the State.

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It is alleged that Mst.Willi is having a plot which is occupied illegally by the proposed accused; the applicant being social worker of the locality extended help to Mst.Willi to get possession of her plot, which annoyed the proposed accused, who fired at the applicant with intention to commit his murder; the incident was reported by the applicant to police, but no formal FIR whereof was recorded; consequently the applicant by way of making an application under Section 22-A & B Cr.P.C sought for issuance of direction against the police to record FIR of the applicant, which was dismissed by learned Additional Sessions Judge-I/Ex-officio Justice of Peace Tharparkar at Mithi vide his order dated 17.12.2020, which is impugned by the applicant before this Court by way of insant Criminal Misc.Application.

It is contended by learned counsel for the applicant that a cognizable offence took place, therefore, Ex-officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order, same being illegal is liable to be set-aside with direction to police to record FIR of the incident at the verbatim of the applicant.

Learned A.P.G for the State by supporting the impugned order has sought for dismissal instant Criminal Misc. Application by contending that the applicant is intending to resolve his dispute with the proposed accused over plot by involving them in a false case.

I have considered the above argument and perused the record.

There is dispute between the parties over plot. The fires allegedly made at the applicant proved to be ineffective. In these circumstances, the contention of learned A.P.G for the State that the applicant is intending to involve the proposed accused in a false case could not be lost sight of.

In case of ***Rai Ashraf and others vs Muhammad Saleem Bhatti and others (PLD 2010 Supreme Court 691)*** it has been held by Hon'ble apex Court that;-

*“Application for registration of FIR had been filed with mala fide intention---High Court had erred in law to exercise discretion in favour of applicant---Constitution petition was not maintainable as disputed questions of fact could not be decided in constitutional jurisdiction---Supreme Court set aside impugned order in circumstances.”*

In view of above, it could be concluded safely that impugned order is not calling for any interference by this Court in exercise of its inherent jurisdiction by way of instant Criminal Misc. Application 561-A Cr.P.C, it is dismissed accordingly.

JUDGE