

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.763 of 2021

**Syed Muhammad Ahmed Raza
& 2 others**, applicants through

Mr. Javaid Hussain, advocate

The State,
through:

Ms. Rubina Qadir, DPG along
with Haseeb Ahmed, SHO PS
Shahrah-e-Faisal, Karachi

Ammad Nabi
Respondents No.4:

In-person

Date of hearing:

29.12.2021

ORDER

Adnan-ul-Karim Memon, J. Applicants have questioned the order dated 17.11.2021, whereby the learned Additional Sessions Judge-III, Karachi East, directed the police to record the statement of complainant /respondent No.4 under Section 154 Cr.P.C. book and provide legal protection to him.

2. Mr. Javaid Hussain, learned counsel for the applicants, has submitted that the impugned order dated 17-11-2021 passed by the learned Additional Sessions Judge-III, Karachi East, is null and void under the law and liable to be set aside; that learned Judge did not use the judicial mind as well as did not refer report produced by the concerned Police Station to the effect that no offense has taken place; that respondent No. 4 failed to array the applicants as party to the proceedings through correct address and due to this reason the applicants did not receive the summon or notice from the learned trial Court; and, learned trial Court did not consider this point and directly allowed the application of the respondent No.4, therefore, the same is liable to be set aside; that before the filing of the application under sections 22A & B Cr.P.C. by respondent No. 4, applicant No.3 (Syed Muhammad Ahmed Raza) lodged FIR No. 1300/2021 under section 420/406/506/34 PPC at PS Shahrah-e-Faisal Karachi District East on 13-10-2021 against the respondent No. 4; that there is a civil dispute pending between the parties in respect of Plot No. A-172 Hindu Gate Deh Okarvi NC-193 Gulshan-e- Iqbal Karachi and according to the charge sheet Hammad Nabi son of Zaheer Ahmed sold out the plot in question in the year of 2014, and since 2014 till now he has no concern with the plot in question; that learned Judge did not consider this fact and allowed the application without any proper inquiry. He prayed for allowing the instant application.

3. Ammad Nabi, respondent No.4 present in person has submitted that on 29-10-2021 at about 9:45 hours, the applicants assaulted him and caused damage to his property and snatched a certain amount, thus a cognizable offense was committed by

them. He supported the impugned order passed by the learned trial court and prayed for the dismissal of the instant application.

4. SHO PS Shahrah-e-Faisal, Karachi present in court has submitted that nothing has happened as portrayed by respondent No.4. He further added that on 13.10.2021, the applicant (Syed Muhammad Ahmed Raza) registered FIR No.1300/2021 under section 420/406/506/34 PPC at this Police Station against respondent No.4, Muhammad Ishtiaq Khan, and others regarding fraud and forgery of in respect of Plot No.A-172, Hindu Gate, Deh Okewari, NC-193, Gulshan-e-Iqbal Karachi, who had taken the amount of Rs.10,00,000/- from the applicant as well as abused and threatened him. Per SHO, the case against them has already been challaned vide charge-sheet No.529/2021 dated 13-11-2021: that respondent No.4 has made a false and fabricated story regarding the alleged offense to the effect that the applicant had entered into his house along with 04 unknown persons and beaten him as well as applicant took out a pistol and threatened the respondent No.4 for dire consequences and snatched cash; that after that incident respondent No.4 did not approach at the Police Station nor called to Madadgar-15 for Police help; that respondent No.4 want to lodge counter FIR for revenge.

5. I have heard the parties and perused the material available on record.

6. Primarily, there is a trend to use false F.I.R. and fabricated complaints to take revenge from someone. It has become a strong mechanism for the attack on mental health, reputation, and the creation of fear. In criminal matters the procedure of registration of cases in courts is provided under sections 154, 154(3), 156(3), 190 CrPC, and Private Complaint made before Magistrate under section 200 Cr.P.C., false FIR and complaints mean making false allegations and lodging FIR or complaints based on conspired fabricated facts and circumstances to harass the other person by misuse of law and judicial proceedings. The police are obliged to register FIR for all cognizable offenses and to pursue the investigation with due process of law. Innocent people, who are implicated in false cases under a malicious FIR, face many problems due to these legal procedures.

7. The story narrated by respondent No.4 in his application under section 22-A and 22-B Cr.P.C. is manifested upon the malice as per the report of SHO Shahrah-e-Faisal PS, Karachi, coupled with the factum that the FIR had already been lodged by the applicants against respondent No.4 and others, concerning the sale and purchase of plot as discussed supra, therefore, the SSP concerned is directed to look into the allegations and counter-allegations of the parties and thoroughly probe the matter and if it is found during the inquiry that respondent No.4 had lodged false application before the concerned Court against the applicants, strict action shall be taken against

the respondent No.4 and others under the law including penal action. The aforesaid exercise shall be undertaken within two weeks from the date of receipt of the order.

8. In view of the above, I find that the continuation of the proceedings with the impugned order dated 17.11.2021 passed by the learned Additional Sessions Judge-III, Karachi East would be a complete abuse of process of the Court, and therefore, the application is allowed. Resultantly, the impugned order dated 17.11.2021 is set-aside.

9. These are the reasons for my short order dated 29.12.2021, whereby, I allowed the instant Criminal Miscellaneous Application.

JUDGE

Zahid/*