

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Rev. Appln. No. S – 27 of 2011

Date	Order with Signature of Hon'ble Judge
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For hearing of main case

(Notice issued)

15.11.2019

Mr. A.M Mobeen Khan Advocate for the applicant/complainant
Mr. Aijaz Ahmed Naich Advocate for private respondent No.4
Syed Sardar Ali Shah, DPG for the State

ORDER

Aftab Ahmed Gorar, J- The applicant / complainant by way of instant Criminal Revision Application has impugned order dated 18.01.2011, passed by learned Special Judge, Anti-Corruption Sukkur, whereby his direct complaint was dismissed under Section 203 Cr.P.C.

2. It is contended by learned counsel for the applicant / complainant that the learned trial Court has dismissed the complaint of the applicant without lawful justification, ignoring the fact that the applicant was able to make out a case for cognizance of his complaint; that the learned trial Court has committed glaring irregularities and patent improprieties while dismissing the direct complaint; that there is no bar to initiate both civil as well as criminal proceedings simultaneously; that the learned trial Court has failed to consider that the statements of the witnesses Ghulam Muhammad and Rehmat Ali

recorded by the Circle Officer, ACE Ghotki under the orders of learned trial Court; that there was sufficient material in shape of documentary evidence available with the trial Court for bringing the direct complaint on regular file. He has lastly prayed for setting-aside of the impugned order and bringing the direct complaint on regular file. In support of his contentions, he has relied upon the cases of ***Rafique Bibi v. Muhammad Sharif and others (2006 S C M R 512)*** and ***Muhammad Fiaz Khan vs. Ajmer Khan and another (2010 S C M R 105)***.

3. Learned Deputy Prosecutor General for the State and learned counsel for the private respondents have sought for dismissal of the instant Criminal Revision Application by contending that the private respondents had filed the F. C Suit No.29 of 2001 (Re- Ghulam Nabi and others vs. Khushi Muhammad and others), whereas, the present applicant/complainant had also filed F. C Suit No.48 of 2001 (Re- Khushi Muhammad vs. Ghulam Nabi and others) before the Court of learned Senior Civil Judge Ubauro, the said Suits proceeded, ultimately, the Suit of the private respondents was decreed and the Suit filed by the present applicant/complainant was dismissed vide consolidated judgment dated 21.09.2013. They further contended that the applicant /complainant in order to convert the civil litigation into criminal litigation as such filed the instant direct complaint just to drag the private respondents.

4. I have considered the above arguments and perused the record. Admittedly, the applicant/complainant is seeking that cognizance may be taken in the case, where fraud has been committed by the respondents 2 and 3 in collusion with the private respondents 4 to 9. Admittedly, the parties have already sued each other regarding the same dispute by filing Civil Suits before the Court of learned Senior Civil Judge Ubuaro i.e. F. C Suit No.29 of 2001 (re-Ghulam Nabi and others v. Khushi Muhammad and others) for cancellation of documents and permanent injunction and F. C Suit No.48 of 2001 (re- Khushi Muhammad v. Ghulam Nabi and others) for possession and mesne profits and permanent injunction. Learned counsel for the private respondents 4 to 9 has placed on record Photostat of certified copy of consolidated judgment dated 21.09.2013 passed by learned Senior Civil Judge Ubauro, whereby Suit filed by the private respondents 4 to 9 has been decreed, whereas, the Suit filed by the applicant/complainant has been dismissed. Both the suits filed by the parties were in respect of the property claimed by the applicant/complainant in the present direct complaint. So far the allegation as leveled by the applicant/complainant against the respondents regarding forgery in revenue record of rights is concerned, the sale deed on the basis of which the applicant/complainant has claimed his right over the property in question has been disbelieved by the competent Civil Court having jurisdiction vide judgment 21.09.2013 by declaring such documents as

null and void. The applicant/complainant Khushi Muhammad has prima-facie failed to produce material which constitutes any offence allegedly committed by the respondents. The record reveals that dispute between the parties was purely of civil nature and the registered sale deed of which the applicant/complainant has claimed his right over the disputed property has already been cancelled and has been declared null and void, but the applicant/complainant in order to create harassment and pressure over the respondents has filed the direct complaint and has tried to convert the civil litigation into criminal. The case-law relied upon by the learned counsel for the applicant / complainant are on distinguishable facts and circumstances hence the same are not helpful to the applicant/complainant.

5. For what has been discussion herein above, the impugned order dated 18.01.2011 passed by learned trial Court does not call for any interference by this Court, accordingly, the instant Criminal Revision Application is dismissed.

Judge

ARBROHI