

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 220 of 2019

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

29.11.2019

Applicant Muhammad Younis Magsi present in person
Respondent No.2 / Mehboob Ali present in person
Mr. Aftab Ahmed Shar, Additional PG for the State

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Aftab Ahmed Gorar, J;- The applicant by way of instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C has impugned Order dated 09.02.2019 passed by learned Ex-Officio Justice of Peace / Additional Sessions Judge (Hudood) Sukkur, on application under Section 22-A and B Cr.P.C, whereby he has dismissed the said application being meritless.

2. The facts of the case are that the applicant filed a Criminal Miscellaneous Application under Section 22-A and 22-B Cr.P.C, stating therein that his brother Muhammad Sharif alias Baboo was going to drop his daughters namely Baby Zahida and Sasui to School, but on the way the private respondents came in police mobile and apprehended and took away his brother and since then his brother Muhammad Sharif and baby Sasui are missing and he apprehended that he would be involved in false criminal case or murdered, hence he prayed for action against the respondents. It is further stated that

the matter remained pending before Ex-Officio Justice of Peace upto 08.2.2019, whereas, the SHO Police Station Site Area Sukkur filed report that the said brother of the applicant has been involved by the police of Mirpurkhas in some FIRs, therefore, he sought for registration of FIR against the private respondents.

3. It is contended by applicant that the learned Ex-Officio Justice of Peace has not considered the fact that his brother Muhammad Sharif along with his daughters was abducted by the private respondents along with police and they were missing, whereas, such false FIRs have been registered against his brother; that he has approached the SHO but his FIR was not recorded, hence he preferred the instant Criminal Miscellaneous Application by invoking the jurisdiction u/s 22-A and 22-B Cr.P.C. He lastly prayed that the impugned order dated 09.2.2019 may be set-aside and the SHO Police Station Site / respondent No.3 may be directed to record his statement u/s 154 Cr.P.C, in accordance with law.

4. Learned Additional PG for the State as well as private respondent No.3 / Mehboob Ali supported the impugned order by stating that no incident as alleged by the applicant has taken place and he in order to satisfy his enmity with private respondents at the instance of his brother Muhammad Sharif has sought for issuance of direction against SHO P.S Site Sukkur for recording his FIR without

any lawful justification. Lastly, they sought for dismissal of the instant Criminal Miscellaneous Application.

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

6. The allegation which is levelled by applicant against the private respondents and police officials in the memo of criminal miscellaneous application is that of apprehending his brother Muhammad Sharif along with his two daughters namely Baby Zahida and Sasui. There is no substantive proof available with the applicant either he was accompanying the alleged detainees at the time when they were taken away by the private respondents along with police or he was present there or anybody else has informed him about the incident. There is no date, time and place of the incident shown in the memo of application filed by the applicant before the Ex-Officio Justice of Peace Sukkur dated 23.01.2019. Thus, there appears no truth in the version of the applicant as given in the memo of instant criminal miscellaneous application. In that situation, learned Ex-Officio Justice of Peace / Additional Sessions Judge (Hudood) Sukkur was right to pass the impugned order dated 09.02.2019 hence it does not call for any interference by this Court by way of instant criminal miscellaneous application. It is dismissed accordingly.

Judge