

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Crl. Misc. Application No. 157 of 2019

Date _____ Order with signature of Judge _____

For hearing of main case.

Date of hearing 20.09.2021

Applicant present in person.

Mr. Ghulam Hasnain, Advocate for respondent Nos. 6&7 a/w respondent No.6.

Respondent No.5, present in person.

Mr. Muntazir Ali Mehdi, Addl. P.G., Sindh.

KAUSAR SULTANA HUSSAIN, J:----- Initially the Petitioner has filed a Constitution Petition (No. D-7692 of 2017) under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, whereby he has assailed the impugned dismissal order dated 05.10.2017, before learned Double Bench of this Court, passed by learned District & Sessions Judge Karachi-West, in Criminal Misc. Application No. 859 of 2017. Later on during proceedings of the said Petition the learned Double Bench vide order dated 05.04.2019, converted the said petition into Criminal Miscellaneous Application, as per case law reported in *P.L.D 2016 SC 581 (Younas Abbas and others Vs. Additional Sessions Judge Chakwal and others)*, with direction to the office to assign new number to it, which was accordingly done by the office of this Court and new number has been assigned to it as Criminal Misc. Application No. 157 of 2019.

2. Relevant facts of the instant Criminal Misc. Application No. 157 of 2019 in short are that:

"On 18.07.2017, at 11:50 PM, SHO Surjani, Ahmed Asim Behari, Inspector Investigation Police Yousuf Durani, and Sub-Inspector Tariq Khalid leading a large number of Police officials, attacked the petitioner's Village Abdul Raheem Goth, situated at N.C 44, Surjani, Karachi West and started indiscriminate aerial firing to create harassment and fear and then the applicant was arrested and beaten by police officers, their sub-ordinates and private persons; they also tortured and abused the women folk and children and looted valuable households articles, cash and jewelry from them. Thereafter, all the police officers and private persons broken C.C T.V Cameras installed on walls so also it's Memory Cards. More than 25 persons alongwith applicant brought to PS Surjani by the Police, who tortured them severally and received heavy amounts from them as ransom. Police also obtained their signatures on Affidavits to vacate their homes in Village for their release. The applicant has falsely been implicated in FIR No. 257 of 2017, PS Surjani, under Section 353, 324, 323, 427/511 Cr.P.C, Read With Section 7 ATA and forcibly extorted ransom amount of Rs. 400,000/- from applicant for not killing him in false encounter.

After release, the applicant filed Cr. Misc. Application No. 1202 of 2017, under Section 22-A Cr.PC before the District Judge, Karachi West against the illegal act of said police officials of PS Surjani, which was dismissed through impugned order."

3. I have heard the applicant in person, learned counsel for the respondents as well as Addl. P.G Sindh, and also have gone through the entire available record with due care and caution.

4. Record shows that one Mst. Seema the niece of the Applicant after obtaining order from this Court through filing C.P. No. D-4991 of 2017 has already lodged an FIR No. 438 of 2017 under Section 365, 392/34 PPC against Police Officials of PS Surjani and for quashment of the said FIR the Police Officials have also approached to this Court through filing a Petition No. C.P. No. D-5667 of 2017, which is pending for adjudication. Now the Applicant through filing this Petition wants to lodge an FIR for the same alleged incident. It is well settled law that against same incident two FIRs cannot be registered.

5. The learned Lahore High Court in the judgment of Sadiq Masih v. S.H.O & others reported in 1994 PCr.L.J 295 has been pleased to observe that:

"It is now well-settled that when an F.I.R. stands already registered regarding an incident, no direction for registering second F.I.R. based on cross-version put forth by other side can be issued because it is not so provided in law, as has been held by a Division Bench of this Court in Mushtaq Ahmad's case 1984 P Cr. L J 1454. Needless to say that if the Police finds that free fight had taken place and that both parties ought to be challaned then it can do so even in the absence of registration of a second F.I.R."

6. The learned Lahore High Court in the said judgment of Mushtaq Ahmed v. The S.H.O., Police Station, Munawan, reported in 1984 PCr.L.J 1454 has been pleased to observe that:

"When a case has been registered in respect of an occurrence, no second case can be registered giving a counter-version

thereof by the accused persons. It is by now clearly established law that no direction can be issued for registration of a case when a F. I. R. has already been registered in respect of the occurrence for giving counter- version of the other side."

7. Record further shows that there is a chronology of lodging FIRs by the Applicant against Police Officials and likewise by the State and private persons against Applicant, as such there are/were several FIRs have been registered against the Applicant. The Respondents No.6 and 7 (Police Officials) have enclosed a detail list of such criminal cases registered against the Applicant alongwith their comments and submitted that the Applicant and his Son alongwith several persons are involved in land grabbing and they have encroached number of Government and private land. They have enclosed a copy of FIR No. 238 of 2017 lodged by one Mohammad Iqbal son of Mohammad Idrees against several accused including the Appellant's son Imtiaz Brohi, according to which his plot bearing No. B-205 was encroached by the persons nominated therein, and when police reached at the said place and arrested one of the nominated accused namely Aashiq son of Maznoor 8 to 10 persons equipped with lathies attacked upon police officials and tried to release the accused from police custody. Police lodged an FIR of such incident against the said persons and now the Applicant is trying to lodge false FIRs against the said Police Officials, who are/were investigating against the encroachers.

8. It seems that the Applicant through filing multiple FIRs against Police Officials is trying to protect himself and other encroachers of

the locality from any action against their act of encroachment over the Government land as well as private land, so that they could continue their possession over the encroached land. Per record Applicant and his sons are involved in several heinous crimes including under Section 7 of Anti-Terrorism Act, 1997. I, therefore, find no illegality or infirmity in the impugned order warranting interference of this Court, hence, the present Criminal Misc. Application No. 157 of 2019 is dismissed.

9. These are the reasons of my short order passed on 20.09.2021.

J U D G E

Faheem/PA