

IN THE HIGH COURT OF SINDH, AT KARACHI
Criminal Misc. Application 54 of 2022

Applicant : Bilal Khan s/o Sani Gul, through
Mr. Muhammad Ismail Rajput, advocate

Respondent No.1 to 3 : Xth Additional District & Sessions Judge, West
Karachi, S.S.P. *Complaint Cell West Karachi &*
S.H.O. P.S. Docks Karachi (*nemo*)

Respondent No.4 : Sani Gul (*nemo*)

Date of hearing : 25.01.2022
Date of order : 25.01.2022

ORDER

ZAFAR AHMED RAJPUT, J:- The respondent No.4 herein filed Cr. Misc. Application No. 52/2022, under section 22-A & B, Cr.P.C. [*Re: Sani Gul vs. S.S.P. District West (Complaint Cell) and another*] before the learned Sessions Judge/Ex-Officio Justice of Peace, Karachi-West seeking directions to respondent No. 3 (**S.H.O. P.S. Docks Karachi**) to record his statement under section 154, Cr.P.C. and register the F.I.R. against his real sons/ proposed accused Bilal (*applicant*), Zakaria, Umraiz, Ilyas and Rehman Gul, who forcibly got vacated his house from his daughter and son-in-law and also bent upon to occupy the said house and his launch (کشتی). It was the case of the respondent No.4 that he approached respondents No. 2 & 3 for lodging of the F.I.R. but they commenced an inquiry prior to registration of the F.I.R. The said Cr. Misc. Application was heard and allowed by the learned Xth Additional Sessions Judge/Ex-Office Justice of Peace, Karachi-West vide order, dated 18.01.2022, with following observations:-

“I have given my careful consideration to contentions given in the instant petition and perused the record and report submitted by S.P concerned. It appears that there is dispute between parties over a house and proposed accused persons have extended threats of dire consequences to the petitioner. Apparently, the offence of cognizable in nature is made out with the petitioner. Under such circumstances, the S.H.O of P.S concerned is hereby directed to record the statement of petitioner and if any cognizance offence is made out then lodged the FIR and in case, FIR found to be false then action U/s. 182 PPC be taken against petitioner. The S.H.O is further

hereby directed to provide due protection to the petitioner in respect of his person and property according to law.”

It is against said order, the instant Cr. Misc. Application has been preferred by the applicant, under section 561-A, Cr. P.C.

2. Learned counsel for the applicant contends that there is civil dispute between the applicant and respondent No. 4 over a house; that the elder son of the respondent No. 4 is a greedy man, who instigate him to move applications against the applicant and his other brothers in order to tease them; that prior to the instant application on the same alleged incident F.I.R. No. 646/2020 was lodged at the same Police Station wherein challan was submitted by the police against the applicant and his three brothers; however, they were acquitted of the charge by the Court of Judicial Magistrate-XVII, M.T.M.C., Karachi-West vide judgment, dated 23.04.2021, passed in Case No. 2506/2020; that the impugned order is not sustainable in law; that the learned Justice of Peace passed the impugned order without going through the real facts and merit and demerits of the case; that the learned Justice of Peace has erred while passing the impugned order as the same was passed without proper verification of facts and applying his judicious mind; therefore, the same is liable to be set aside.

3. There can be no cavil to the proposition that once the allegation with regard to the commission of a cognizable offence is communicated to police, the police is duty bound to register a case. In the case of Sana Ullah versus S.H.O, Police Station, Civil Line Gujrat and 3 others (PLD 2003 Lahore 228) while interpreting Section 154, Cr.P.C, it was held that words used in section 154 of the Cr.P.C “*every information relating to commission of a cognizable offence*” pertains only to the information so supplied and do not pertain to actual commission of the cognizable offence and that information supplied should be about an alleged commission of a cognizable offence irrespective of its truthfulness or otherwise and concerned police official has to satisfy himself only to the extent that the information is in respect of a cognizable offence. It was also held that at the time of first information report, accused persons named in the complaint have no right of hearing. It is, therefore, obvious that if there is an

information regarding commission of a cognizable offence, the police officer concerned is under statutory obligation, without hearing the accused person, to enter it in the prescribed register. Failure of the concerned police officer to register a complaint so made or his resorting to delaying tactics, amounts to failure to discharge statutory obligations, which attracts provisions of Section 22-A (6) (i), Cr.P.C.

4. An aggrieved person is well within his rights to approach the Justice of Peace under section 22-A(6) (i), Cr. P.C, with a prayer for registration of the F.I.R., and if the later comes to the conclusion that a cognizable offence is apparent from the data available on the record, he can pass an order for registration of the F.I.R.; as such, the Justice of Peace is saddled with the administrative duty to redress the grievances of the complainant aggrieved by refusal of police officer to register his report.

5. I am not impressed with the arguments of learned counsel for the applicant. Under section 22-A(6) (i), Cr. P.C, the Justice of Peace is not authorized to assume the role of investigating agency or prosecution. Even minute examination of the case and fact findings upon the application and report of police is not included in the function of the justice of Peace.

6. It may also be observed that every citizen has got a right to get his complaint registered under section 154, Cr.P.C. with local police when complaint makes out a cognizable offence, a safeguard against false complaint is provided under section 182, P.P.C. whereby a person giving false information to an officer in-charge of a police station can be prosecuted for an offence punishable under sections, 182 or 211, P.P.C., if such information is found to be false.

7. For the foregoing facts and reasons, there appears no illegality or irregularity in the impugned order requiring any interference of this Court under its inherent powers under Section 561-A, Cr.P.C. Hence, this Ctrl. Misc. Application is dismissed in limine.

Above are reasons of short order dated 25.01.2022.

JUDGE