

ORDER SHEET

IN THE HIGH Court OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 360 of 2019

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

(Notice issued)

18.01.2021

Mr. Iftikhar Ali Arain Advocate for the Applicant

Mr. Khalil Ahmed Maitlo, DPG 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 17.07.2017 passed by learned Ex-Officio Justice of Peace/Ind. Additional Sessions Judge, Ghotki, on application under Section 22-A(6)(i) Cr.P.C, whereby he has directed SHO Police Station Ubauro to record statement of the private respondent u/s 154 Cr.P.C

2. After filing of the instant matter, repeated notices were issued to against the private respondent, but she could not be served and lastly the notice was issued to her through SSP Ghotki, which was returned with the endorsement that the private respondent has shifted away to some unknown places and in this regard the Process-server SIP Niaz Ahmed Korai of Police Station Ubauro has recorded the statements of two *nekmards* of the locality namely Mumtaz Ali S/o Jhangal Din Chachar and Mashghool Ahmed S/o Belo Khan Bughti.

3. It is contended by learned counsel for the applicant that no incident as alleged by the private respondent has taken place and she in order to satisfy her enmity with applicant and others has sought for issuance of direction against SHO P.S Ubauro to record her FIR without any lawful justification, whereas, regarding the same incident she has also filed an application on the same facts seeking registration of her FIR and got such order dated 11.07.2017 by learned 1st. Additional Sessions Judge / Ex-Officio Justice of Peace, Ghotki. It is further contended that pursuant to

such order in respect of the same incident the private respondent got registered the FIR No.97/1997 at Police Station Ubauro under Section 344, 506/2, 337-A(i), F(i) PPC, which was investigated and disposed of under 'C' cancelled class and such summary was approved by the competent Civil Judge. It is contended that the private respondent regarding the same incident also wants to register second FIR just to drag the applicant in false criminal cases. By contending so, he sought for setting aside of the impugned order.

4. Learned DPG for the State did not support the impugned order by contending that the private respondent has tried to get register the second FIR relating to the same incident for which she has already registered the FIR, which was disposed of under 'C' class.

5. I have considered the above arguments and perused the record. Admittedly, the date of the incident and the nature of the allegations mentioned in the memo of Criminal Miscellaneous Application No.1409/2017 so also in the FIR No.97/2017 registered by the private respondent under the orders of learned Ex-Officio Justice of Peace, are same. The FIR lodged by the private respondent has already been disposed of under 'C' cancelled class. The instant matter is pending since 2017, despite repeated notices the private respondent could not be served nor turned up to pursue the matter, meaning thereby she is not interested in the matter. It is settled principle that law always favour the vigilant not the indolent. In that situation, since the earlier FIR regarding the same incident has already been disposed of under 'C' class being false one, therefore, it cannot be ordered that another FIR shall be registered. In view of above, the instant Criminal Miscellaneous Application is allowed, consequently the impugned order dated 17.07.2017 is not set-aside.

Judge