

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 441 of 2019

Date

Order with Signature of Hon'ble Judge

Priority case

1. For hearing of main case
2. For hearing of MA No.3262/2019 (S/A)
(notice issued)

28.08.2020

Mr. Anwer Ali Lohar Advocate a/w Applicant No.3 / Babar Ali
 Mr. Saifullah Soomro Advocate for the respondent No.3
 Mr. Khalil Ahmed Maitlo, DPG for the State

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Aftab Ahmed Gorar, J:- Through instant Criminal Miscellaneous Application, the applicants have impugned the order dated 22.06.2019 passed by learned Additional Sessions Judge-II/ Ex-Officio Justice of Peace, Ghotki, on the application under Section 22-A(6)(i) Cr.P.C, filed by the private respondent seeking registration of the FIR.

2. The facts necessary for disposal of instant application are that the private respondent filed an application u/s 22-A(6)(i) Cr.P.C against the present applicants, stating therein that on 17.05.2019 he along with his family members was available in his house, it was 12:15 am, the proposed accused Sadam Hussain, Barkat Ali and Babar Chachar duly armed with deadly weapons intruded into his house, broken the lock of Iron Box and took cash of Rs.5000/- and also stolen Solar Penal, they woke up on the sound and on the light of bulbs saw and identified the proposed accused

and due to scare of weapons they did not chase the proposed accused and on the next date he along with his nekmard and witnesses approached the proposed accused for return of the theft cash and solar penal, the proposed accused became annoyed and on 21.05.2019 they again came at his house and made straight firing with intention to kill them, but luckily they fell down and saved their lives, and also issued threats and they escaped away. On approach to the concerned SHO, his FIR was not recorded, hence he filed the instant application before learned Sessions Judge/ Ex-Officio Justice of Peace, Ghotki, which was assigned to learned Additional Sessions Judge-II / Ex-Officio Justice of Peace, Ghotki

3. Learned Counsel for the applicants submits that the learned Ex-Officio Justice of Peace has passed the impugned order without considering the facts with regard to the theft allegedly committed from the house of private respondent and making firing, whereas, he has ordered the FIA as well as concerned SHO for conducting the inquiry with regard to the photo filed by the counsel for private respondent and it is alleged that the proposed accused Barkat Ali Chachar is seen sitting on the Cot with huge quantity of bullets and holding some automatic weapons in his hand, whereas, proposed accused Saddam is also holding Kalashnikov in his hand. He submits that the photos may be fake. He lastly prayed that he would be satisfied, if the case may be remanded back to learned Additional Sessions Judge-II / Ex-Officio Justice of Peace, Ghotki for passing the order afresh in the light of facts narrated in the application as well as report called from the concerned SHO.

4. Learned counsel appearing for the private respondent and learned DPG for the State and raised no objection for remanding the case to learned Additional Sessions Judge-II / Ex-Officio Justice of Peace, Ghotki.

5. By consent, the instant Criminal Miscellaneous Application is dismissed as not pressed. However, it is ordered that the Criminal Miscellaneous Application No.979/2019 reg- Abdul Rasheed vs. SHO P.S Salehpat and another shall be treated as pending and learned Additional Sessions Judge-II / Ex-Officio Justice of Peace, Ghotki is directed to pass afresh order on the said application, after providing an opportunity of hearing to all concerned, strictly in accordance with law.

Judge

ARBROHI