

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Misc. Appln. No. S – 11 of 2019**


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Date	Order with Signature of Hon'ble Judge
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**For hearing of main case****07.02.2020**

Applicant Manthar Ali is present in person  
 Mr. Abdul Rehman Kolachi, DPG for the State

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The instant Criminal Miscellaneous Application was presented in the office on 03.01.2019, for the first time fixed in Court on 04.01.2019 subject to the question of maintainability notice was issued to respondents 2 and 3. On 25.02.2019, the applicant was present, his counsel called absent. Again on 05.4.2019 applicant and his counsel were called absent. On 06.5.2019 applicant was present sought time, at his request the matter was adjourned. On 21.10.2019, the applicant was present and stated that his counsel is out of station, as such the matter was adjourned. On 16.12.2019 no one was present and as an indulgence the matter was adjourned. On 20.01.2020 the applicant was present, sought time on the ground that his counsel is unwell, hence the matter was adjourned. Today when the matter is taken up for hearing, applicant present, again requests for adjournment on the ground that his counsel is away at Hyderabad, his request is turned down.

2. By way of instant Criminal Miscellaneous Application, the applicant has impugned the order dated 22.12.2018 passed by learned 1<sup>st</sup> Additional Sessions Judge / Ex-Officio Justice of Peace Khairpur, dismissing the application under Section 3 and 4 of the Contempt of Court Ordinance, 2004, filed by the applicant for initiating contempt proceedings against the Contemnor/SHO Police Mirwah.

3. I have heard the applicant in person as well as learned DPG appearing for the State and have gone through the impugned order as well as relevant record. It would be conducive to reproduce the relevant portion of the impugned order;

*“Heard learned counsel for the parties and perused the relevant record, which reveals that initially the applicant Manthar Ali had filed application U/S 22-A & 22-B Cr.P.C bearing No.4468/2018 seeking directions to SHO PW Mirwah for registration of FIR in respect of alleged incident of murder of deceased namely Gulnaz. Record further reveals that proposed accused party through Shah Muhammad Leghari also filed similar type application U/S 22-A & 22-B Cr.P.C bearing No.5183/2018 in respect of alleged murder of same deceased namely Mst. Gulnaz, hence both these applications were decided by this Court vide order dated 12.12.2018 directing to SHO PS Mirwah to record the statements of both the applicants of respective applications and find out cognizable offence in respect of alleged murder of deceased Mst. Gulnaz and SHO was further bound down to register case against proposed accused of either party against whom cognizable offence is made out and take action in the matter in accordance with law. Record show that today SHO PS Mirwah in his report dated 22.12.2018 stated that the FIR of applicant Shah Muhammad Laghari has been lodged against present applicant party namely Manthar Ali and others in compliance of order of this Court, after finding out cognizable offence against them which is under investigation with I/O of PS Mirwah. He further reported that in pursuance of the worthy judgment dated 04.05.2018 of Hon’ble Supreme Court of Pakistan passed in Human Right Case No.10842-P of 2018 (regarding Registration of second FIR in respect of a police encounter wherein the petitioner’s son namely Mohsin Ali was killed at the hands of the local police). Re- Ms. Sughran Bibi V/S The State, wherein it has been held by the Hon’ble Supreme Court as under;*

*“As an FIR had been registered in the present case regarding same occurrence and the offence allegedly committed therein and upon completion of the investigation of the case challan had been submitted before trial Court, and as the present petitioner had instituted a private complaint depicting*

*her version of the same incident and after summoning of the accused persons nominated therein a trial is already in progress in connection with that private complaint, therefore, ordering registration of another FIR based upon the petitioner's version of that very incident is not legally warranted. Thus petition was dismissed.*

*In view of the above discussion, it appears that no any violation of the order of this Court has been seen to have been committed by the SHO/IO PS Mirwah in compliance of the orders of this Court because the FIR lodged by Shah Muhammad Laghari is under investigation with SHO PS Mirwah, and if the applicant is aggrieved with the act and conduct of SHO/IO PS Mirwah regarding investigation and giving undue favour to opponent party of applicant then he may have to get the said investigation transferred from SHO/IO PS Mirwah while availing proper remedy available with him as per law if he so desires. In these circumstances instant application being meritless is hereby dismissed."*

4. On my careful assessment of the above facts, it appears that no such violation of the order passed by the learned Ex-Officio Justice of Peace has been committed by the SHO PS Mirwah, whereas, in compliance of the order of the learned Ex-Officio Justice of Peace, the FIR regarding the murder of deceased Mst. Gulnaz has already been registered by the SHO Police Station Mirwah and it was under investigation, if the applicant would have any grievance, he may approach before the competent Court of law for redressal of his grievance, if any. In such circumstances, the impugned order dated 22.12.2018 passed by learned Ex-Officio Justice of Peace Khairpur is well-reasoned and does not call for any interference by this Court, the same is maintained. Consequently, the instant Criminal Miscellaneous Application is dismissed.

Judge