

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Misc. Application No. S – 386 of 2019**

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Date

Order with Signature of Hon'ble Judge

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**For hearing of case**

1. For orders on office objection at flag 'A'
2. For hearing of MA No.2886/2019 (S/A)

**24.01.2020**

Mr. Najeebullah Jalbani Advocate for the applicants  
Mr. Abdul Rehman Kolachi, DPG for the State

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Through instant Criminal Miscellaneous Application, the applicants have impugned the order dated 31.05.2019 passed by learned 3<sup>rd</sup> Additional Sessions Judge / Ex-Officio Justice of Peace Naushahro Feroze, whereby the application u/s 22-A and 22-B Cr.P.C filed by the private respondent No.1 seeking directions against the SHO Police Station, Naushahro Feroze for recording her statement in respect of the offence allegedly committed by the applicants / proposed accused, has been allowed.

2. Notices issued against the private respondents but they did not turn up to pursue the matter.

3. Learned counsel for the applicants / proposed accused submits that there is civil litigation pending between the parties as the private respondent No.1 / Mst. Naziran has filed F.C Suit No.48/2019 before the Court of learned Senior Civil Judge Naushahro Feroze for declaration and permanent injunction against the present applicants and others, which is pending adjudication; that prior to this the present applicant No.2 had also filed F.C Suit against private respondent No.2 and others seeking declaration, separate possession, mandatory and perpetual injunction, subsequently the same was withdrawn; that the private respondent No.1 in order to develop undue pressure upon the present applicants has filed the

instant Criminal Miscellaneous Application as such has tried to convert the civil litigation into criminal; that the report furnished by the DSP Complaint Cell also reflects that no such incident as alleged has taken place, but there is dispute between the parties over the plot, hence the private respondent No.1 has filed a false application.

4. Learned DPG appearing for the State conceded the submissions of the learned counsel for the applicants as such does not support the impugned order and recorded his no objection for setting aside of the same.

5. I have heard the learned counsel for the applicants as well as learned DPG for the State and perused the record. It is an admitted position that there is civil dispute between the parties over a plot, whereas, such civil suits have been filed by the parties against each other, at present the Suit filed by the private respondent No.1 is pending adjudication before the Court of learned Senior Civil Judge Naushahro Feroze. Furthermore, the DSP Complaint Cell Naushahro Feroze has also furnished report, in which it is stated that no such incident has taken place as alleged by the private respondent No.1, infact the parties are disputing each other over the landed property. The private respondent No.1 by filing the instant Criminal Miscellaneous Application seeking direction for recording her statement in respect of a cognizable offence against the present applicants has tried to convert the civil litigation into criminal. In view of the above, the instant Criminal Miscellaneous Application is allowed and the impugned order dated 31.5.2019 is set-aside. However, the private respondent No.1 is at liberty to avail her remedy by filing direct complaint of the incident before the competent Court of law, having jurisdiction, if so advised.

Judge