

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Misc. Application No. S – 1099 of 2017**

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Date

Order with Signature of Hon'ble Judge

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**Disposed of matter**

1. For orders on MA No.1369/2020 (U/A)
2. For orders on MA No.1370/2020 (Recall order) along with office objection at flag 'A'
3. For hearing of main case

**16.03.2020**

Mr. Safdar Ali Bhatti Advocate for the Applicant  
Mr. Shafi Muhammad Mahar, DPG for the State

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1. Urgency granted.
2. Learned counsel for the applicant submits that on the date i.e.24.02.2020, when this Criminal Miscellaneous Application was dismissed for non-prosecution, he was busy before another Bench of this Court, but unfortunately at the time of call, he could not attend this Court, therefore, prays for restoration of the matter at its' original stage. Learned DPG for the State record no objection for restoration of the matter. In view of the above submissions, as well as no objection given by learned DPG, the listed Miscellaneous Application No.1370/2020 is allowed and instant Criminal Miscellaneous Application is restored to its original stage and learned counsel for the applicant is directed to argue the matter.
3. Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 18.09.2017 passed by learned 4<sup>th</sup> Additional Sessions Judge / Ex-Officio Justice of Peace Khairpur, whereby his application u/s 22-A and 22-B Cr.P.C seeking directions against the SHO Police Station 'A' Section Khairpur for recording his statement in respect of the offence allegedly committed by the proposed accused, has been dismissed.

Learned counsel for the applicant mainly contended that the proposed accused have committed a cognizable offence, therefore, they are liable to be prosecuted under the Law; that the learned Ex-Officio Justice of Peace has not considered the facts, but has passed the impugned order in a hasty manner. He lastly prayed that the impugned order may be recalled and the concerned Police Station 'A' Section may be directed to record the statement of the applicant, if cognizable offence is made out then, the same may be incorporated into book u/s 154 Cr.P.C.

Mr. Shafi Muhammad Mahar, learned DPG supported the impugned order by contending that the same is well-reasoned and speaking one, hence does not call for any interference.

I have heard the learned counsel for the applicant and DPG for the State and perused the record. The perusal of the impugned order reveals that the same is well-reasoned and speaking one. It would be conducive to reproduce the relevant portion of the impugned order as under;

*“Perusal of record shows that there is a dispute between both parties over a landed property and such criminal complaint was filed by husband of an applicant but same was dismissed by the Court of learned Additional Sessions Judge-II, Khairpur vide an order dated 07.09.2017, it is also brought on record that prior to this proposed accused had also filed a harassment petition against husband of an applicant it is also brought on record that proposed accused had also filed a Revenue appeal before the Court of Additional Deputy Commissioner-I Khairpur. Moreover, learned advocate for an applicant has produced a Final M.L.C Certificate of injured and same shows that he sustained one injury and same is non-cog offence, no direction for FIR can be issued. An applicant and proposed accused have old dispute they have filed applications against each other. An applicant has not approached this Court with clean hands as such she has suppressed real facts and it appears that instant application has been made with*

*some ulterior motives and the same is tainted with malice.”*

Admittedly there is dispute in between the applicant and the proposed accused over the landed property, as such it appears to be a dispute of civil nature, whereas, the applicant wants to register a false case against the proposed accused just to drag them in criminal litigation. The impugned order is well-reasoned and speaking one, therefore does not call for any interference by this Court. Accordingly, the instant Criminal Miscellaneous Application is dismissed.

Judge

ARBROHI