

**IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR**

Cr. Misc. Appln. No. S – 759 of 2020

Date

Order with Signature of Hon'ble Judge

For hearing of case

1. For orders on office objection at flag 'A'
2. For hearing of main case

07.10.2021

Ms. Rizwana Jabeen Siddique Advocate a/w Applicant
Mr. J.K Jarwar Advocate for the proposed accused
Mr. Khalil Ahmed Metlo, DPG for the State

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ORDER

Amjad Ali Sahito, J;- Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 25.11.2020 passed by learned 1st Additional Sessions Judge/ Ex-Officio Justice of Peace, Ghotki, whereby the application filed by the applicant under Section 22-A(6)(i) Cr.P.C, was dismissed.

2. The facts of the case as narrated by the applicant/complainant in his Criminal Miscellaneous Application filed before the Ex-Officio Justice Peace are that he is doing the business of cattle and on 30.10.2020 at about 7:00 am, he along with his witnesses namely Jani alias Jan Muhammad and Liaquat brought three He-goats at cattle pond (*Mal Piri*) at Khanpur Mahar and after selling the same he was possessing the cash of Rs.50000.00 and one licensed pistol made in China 30 bore No.31111062, he was apprehended by the proposed accused and forcibly snatched pistol and cash amount from him and thereafter by foisting a unlicensed pistol upon him he was booked in FIR No.76/2020 u/s 23(i)(a) of Sindh Arms Act, 2013 registered at Police Station, Khanpur Mahar and after full-dressed trial, he was acquitted of the said charge vide judgment dated 19.12.2020 passed by learned Sessions Judge, Ghotki in Sessions Case No.140 of 2020 (*re- The State vs. Jan Muhammad*), hence the applicant approached the Ex-Officio Justice of Peace by filing the application seeking registration of a case against the proposed accused that they have committed a

cognizable offence, hence they are liable to be prosecuted under the law, which was dismissed vide impugned order dated 25.11.2020.

3. It is contended by learned counsel for the applicant/complainant that the proposed accused being police officials have committed robbery of cash and licensed pistol from the applicant and in order to avoid their criminal act, falsely booked the applicant in a criminal case by foisting an unlicensed pistol upon him and the applicant after full dressed trial has been acquitted from the charge. She further contended that the impugned order is liable to be set-aside and the SHO Police Station, Khanpur Mahar may be directed to register the FIR of the applicant as per his verbatim.

4. Conversely, learned counsel for the proposed accused and learned Deputy PG for the State prayed for dismissal of the instant Criminal Miscellaneous Application by contending that the learned Ex-Officio Justice of Peace has rightly dismissed the application as the applicant is involved in number of criminal cases, mere acquittal in a criminal case does not give right to an accused to file criminal case against the police officials. They further contended that the impugned order is speaking one, hence does not call for any interference.

5. I have heard the learned counsel for the applicant/complainant, proposed accused as well as learned Deputy PG for the State and perused the impugned order. It is the case of the applicant that on 30.10.2020 at 7:00 am, he along with his witnesses after selling three Hi-goats at Khanpur Mahar cattle pirri was returning, possessing cash of Rs.50000.00 and one licensed pistol, which were snatched from him by the proposed accused being police officials and he was implicated in a false criminal case by foisting pistol upon him i.e. FIR No.76/2020 u/s 23(i) A of Sindh Arms Act, 2013 at police station Khanpur Mahar and during pendency of the instant application, the applicant has been acquitted by the Court of learned Sessions Judge, Ghotki vide Judgment dated 19.12.2020. Since the applicant has been acquitted from the charge, therefore, at this stage the version of the applicant as set-out in the memo of application cannot be disbelieved. Accordingly, the instant Criminal Miscellaneous Application is allowed, resultantly, the impugned order dated 25.11.2020 passed by

learned 1st Additional Sessions Judge / Ex-Officio Justice of Peace, Ghotki is set-aside. SHO Police Station, Khanpur Mahar is directed to record the statement of applicant as per his verbatim and if it discloses the cognizable offences, then the same shall be incorporated into book u/s 154 Cr.P.C.

Judge

ARBROHI