

Order Sheet
IN THE HIGH COURT OF SINDH,
 BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 638 of 2020

Date

Order with Signature of Hon'ble Judge

Priority case

1. For orders on office objection at flag 'A'
2. For hearing of main case
3. For hearing of MA No.7000/2020 (S/A)

06.09.2021

Mr. Achar Khan Gabol Advocate for the applicant/proposed accused
 M/s Naeemuddin Z. Qasmi, Raja Iftikhar Hussain Ansari and Aijaz Ahmed
 Naich Advocates for private respondent
 Mr. Aftab Ahmed Shar, Additional PG for State

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AMJAD ALI SAHITO, J;- Through instant Criminal Miscellaneous Application, the applicant being one of the proposed accused has impugned the order dated 28.10.2020 passed by learned Additional Sessions Judge (Hudood) / Ex-Officio Justice of Peace, Sukkur, whereby the application filed by the private respondent under Sections 22-A and 22-B Cr.P.C for registration of FIR, was allowed.

2. It is contended by learned counsel for the applicant/proposed accused that there is dispute between the applicant and the private respondent over the property / plot, whereas, the private respondent intends to convert the civil litigation into criminal; that nothing has been brought on record to believe that the proposed accused have committed the alleged offence, hence the mere version of the private respondent at this stage cannot be believed as gospel truth. He lastly prayed that the impugned order may be set-side.

3. Learned counsel for the private respondent submits mere dispute over the property would not be sufficient to disbelieve the version of the private respondent , whereas, the applicant/proposed accused along with others has committed a cognizable offence, therefore, they are liable to be prosecuted under the law.

4. Learned Additional PG appearing of the State did not support the impugned order by contending that the alternate remedy is available with the private respondent by way of filing direct complaint of the incident.

5. I have heard the learned counsel for the applicant / proposed accused, learned counsel appearing for private respondent, learned Additional PG for the State and perused the record. The record reflects that there is dispute between the parties over the landed property / plots. In existence of such dispute between the parties over the property / plots, the private respondent is attempting to get register a false criminal case against the proposed accused in order to drag them in false criminal litigation, whereas, such civil litigation is also pending. In such situation, the version of the private respondent as setout in the memo of criminal miscellaneous application cannot be believed as truthful. Consequently, the instant Criminal Miscellaneous Application is allowed and the impugned order dated 28.10.2020 passed by learned Additional Sessions Judge (*Hudood*) / Ex-Officio Justice of Peace, Sukkur is set-aside. However, the private respondent is at liberty to avail the remedy by way of filing direct complaint of the incident before the competent Court of law, if so advised.

Judge