

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

Cr. Misc. Appln. No. S – 528 of 2020

Date	Order with Signature of Hon'ble Judge
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For hearing of main case
 (Notice issued)

13.08.2021

Mr. Aamir Mustafa Kamario Advocate for the Applicant
 Mr. Shahid Ali K.Memon Advocate for proposed accused No.2, 4 & 5
 Syed Sardar Ali Shah Rizvi, DPG for the State
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SIP Yasir Ali Khoso, SHO Police Station A-Section, Sukkur files the reply of show cause notice issued to him for non-compliance of the Court orders, the reason given therein is satisfactory, hence the same is hereby vacated.

Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 25.09.2020 passed by learned Sessions Judge/ Ex-Officio Justice of Peace, Sukkur, whereby the application filed by the applicant under Section 22-A and 22-B Cr.P.C, was dismissed.

It is contended by learned counsel for the applicant that the proposed accused in furtherance of their common object intruded into the house of applicant duly armed with pistols and iron rod / pipe along with three unidentified accused persons and on the instigation of proposed accused Muhammad Yaseen, proposed accused Shahbaz caused pistol butt blow at the hand of his brother Muhammad Javed and accused Gul Naaz caused iron rod blow at his right hand fingers and then proposed accused Muhammad Yaseen and Shumaila committed robbery of cash amount of Rs.500,000, ten tollas of gold ornaments. It is further contended that the proposed accused Shahbaz and unknown accused stripped of the clothes of the sister and sister-in-law of the applicant and outraged their modesty and then kept them under threat that if

they raise any hue and cries, they would be murdered. Thereafter the injured approached the respondent No.1 and such letter for treatment was issued to him as such he got treatment from civil hospital, Sukkur, whereas, the respondent No.1/SHO refused to register the FIR of the incident, though the proposed accused persons have committed a cognizable offence, therefore, they are liable to be prosecuted under the law. He further contends that applicant approached the Ex-Officio Justice of Peace by filing the application u/s 22-A and 22-B Cr.P.C seeking registration of his FIR, which was declined, hence the said order has been impugned by way of filing the present application. He lastly submits that the impugned order is liable to be set-aside and such directions may be issued to respondent No.2 / SHO Police Station 'A' Section, Sukkur for recording the statement of applicant u/s 154 Cr.P.C.

Learned counsel appearing for the proposed accused prayed for dismissal of the instant application by contending that there is family dispute between the applicant and the proposed accused, whereas, such decree has been passed in favour of the proposed accused, hence the applicant in order to convert the civil / family litigation into criminal is seeking registration of a false criminal case; that if the criminal case is registered, the proposed accused would be dragged unnecessarily; that the injuries allegedly sustained by the injured are self-suffered.

Learned DPG for the State did not support the impugned order and contends that the injured namely Muhammad Javed, the brother of the applicant has sustained injuries and such medical certificate has been issued by the Medical Officer, GMC Hospital, Sukkur, hence the impugned order may be set-aside.

I have heard the learned counsel for the applicant as well as proposed accused, learned DPG for the State and perused the record. There may be

family brawl between the parties, whatsoever, but as per the version of the applicant the proposed accused intruded in his house duly armed with pistols and iron rods and on the instigation of proposed accused Muhammad Yaseen, the proposed accused Shahbaz caused pistol butt blow to his brother Muhammad Javed, resultantly, he sustained injuries. The version as set out in the memo of application is supported by the final medico-legal certificate issued by Medical Officer, GMC College Hospital, Sukkur thereby declaring the nature of injury as "*Shajjah-e-Khafifah and Damiah*" caused by hard and blunt substance. In the circumstances, at this stage the version of the applicant cannot be disbelieved. Consequently, the instant criminal miscellaneous application is allowed and the impugned order dated 25.09.2020 passed by Sessions Judge / Ex-Officio Justice of Peace, Sukkur is set-aside. Respondent No.1 / SHO Police Station 'A' Section, Sukkur present in Court is directed to register the FIR of the applicant as per his verbatim. It is made clear that no arrest shall be made after registration of the FIR until and unless some tangible material / evidence collected by the Investigating Officer.

Judge