

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

**Cr. Misc. Appln. No. S – 338 of 2021**

---

Date	Order with Signature of Hon'ble Judge
------	---------------------------------------

**Priority case**

1. For hearing of main case
2. For hearing of MA No.2825/2021 (S/A)

**16.08.2021**

M/s Ali Gul Abbasi and Muhammad Zohaib Azam Rajput Advocate for the  
 Applicants/proposed accused  
 Syed Saleem Akhtar Shah Advocate for private respondent  
 Mr. Shafi Muhammad Mahar, DPG for the State  
 >>>>>>...<<<<<<<<

**Amjad Ali Sahito**, J-- Through instant Criminal Miscellaneous Application, the applicants/proposed accused have impugned the order dated 21.05.2021 passed by learned Additional Sessions Judge-II/ Ex-Officio Justice of Peace, Ghotki, whereby the application filed by the private respondent under Section 22-A and 22-B Cr.P.C, was allowed and ordered for registration of the FIR against the applicants/proposed accused.

2. It is contended by learned counsel for the applicants/proposed accused that the learned Ex-Officio Justice of Peace without considering the report furnished by DSP Complaint Redressal Cell, Ghotki has passed the impugned order in a hasty manner without considering the fact that the applicant No.3 and the private respondent Bashir Ahmed are real brothers and due to dispute over partition of the ancestral property the private respondent is trying to involve the applicants/proposed accused in false criminal cases; that if the FIR of the private respondent is registered definitely the applicants/proposed accused would be dragged in false criminal litigation. He lastly prayed for setting-aside of the impugned order dated 21.05.2021.

3. Learned counsel appearing for the private respondent as well as learned DPG for the State prayed for dismissal of the instant application by contending that the learned Ex-Officio Justice of Peace has passed a speaking order; that the

applicants/proposed accused have committed a cognizable offence, therefore, they are liable to be prosecuted under the law.

4. I have heard the learned counsel for the applicants/proposed accused as well as the counsel for private respondent, learned DPG for the State and perused the record. It appears from the record that the learned Ex-Officio Justice of Peace called report from the DSP Complaint Redressal Centre, Ghotki, who in his report has stated that after filing of the application u/s 22-A and B Cr.P.C the private respondent has not appeared before him, whereas, the applicants/proposed accused appeared and their statements were recorded, in which they have clearly stated that there is dispute going on between them and the private respondent Bashir Ahmed over the partition of ancestral property situated in Deh Odherwali. Further, the parties have already fought with each other and such FIRs have been lodged by the applicant/proposed accused party against the private respondent and others at Police Station Ghotki as well as at Pano Akil. The report further reveals that the proceeding No.01/2021 u/s 134(3) Cr.P.C has also been filed which is pending before 1<sup>st</sup>.Civil Judge and Judicial Magistrate, Ghotki, whereas, the private respondent in order to exert undue pressure upon the applicants/proposed accused has filed the application u/s 22-A and B Cr.P. C seeking registration of a false criminal case against the applicants/proposed accused. Admittedly, there is a civil dispute between both the private parties over the partition of ancestral property, whereas, the private respondent is trying to convert civil litigation into criminal.

5. In view of the above, the instant Criminal Miscellaneous Application is allowed along with listed application and impugned order dated 21.05.2021 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