

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

Cr. Misc. Appln. No. S – 109 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
(Notice issued)

12.08.2021

Mr. Shahzado Dreho Advocate for the Applicant
 Syed Mujahid Ali Shah Advocate for proposed accused
 Mr. Shafi Muhammad Mahar, DPG for the State
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Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 17.02.2020 passed by learned Additional Sessions Judge (Hudood) / Ex-Officio Justice of Peace, Sukkur, whereby the application under Section 22-A and 22-B Cr.P.C filed by the applicant was dismissed.

Learned counsel for the applicant submits that the proposed accused has committed a cognizable offence, therefore, he is liable to be prosecuted under the law; that the learned Ex-Officio Justice of Peace while passing the impugned order has not considered the facts asserted in the memo of criminal miscellaneous 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 DPG for the State as well as learned counsel appearing for the proposed accused vehemently opposed the instant application by contending that there is civil litigation pending adjudication between the parties in the competent Court of law; that the impugned order is a speaking one, hence does not call for any interference by this Court.

I have heard the learned counsel for the applicant as well as proposed accused, learned DPG for the State and perused the record. The record reflects that there is civil litigation is pending adjudication before the competent Court of law and the applicants intends to convert the civil litigation into a criminal, as such he has filed the instant criminal miscellaneous application. The learned Ex-Officio Justice of Peace has rightly dismissed the said application on the ground that the civil litigation is pending between the parties over the property. In view of the above, the impugned order does not call for any interference by this Court. Consequently, the instant Criminal Miscellaneous Application is dismissed. However, the applicant is at liberty to avail his remedy by filing a direct complaint before the competent Court of law, if so advised.

Judge

ARBROHI