

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

**Cr. Misc. Appln. No. S – 69 of 2021**

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.581/2021 (S/A)

**16.09.2021**

Mr. Muhammad Tariq Panhwar Advocate for the Applicant/proposed accused  
Mr.Aamir Hussain Qureshi Advocate for private respondent/complainant  
Mr. Aftab Ahmed Shar, Additional PG for State

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**ORDER**

**AMJAD ALI SAHITO, J:-** Through instant Criminal Miscellaneous Application, the applicant / proposed accused No.4 has impugned the order dated 29.01.2021 passed by learned Additional Sessions Judge / Ex-Officio Justice of Peace, Ubauro, whereby the application filed by the private respondent under Sections 22-A(6)(i) Cr.P.C, was allowed.

2. Learned counsel for the applicant/proposed accused No.4 submits that the learned Ex-Officio Justice of Peace while passing the impugned order has not considered the report furnished by the DSP(Complaint Cell), Ghotki and directed the SHO Police Station Ubauro for recording the statement of the private respondent, whereas, no such incident as alleged has taken place; that the proposed accused 5 to 11 are residing within the province of Punjab within the jurisdiction of police station Kot Samaba, District Rahimyar Khan; that the proposed accused No.8 namely Abdul Khaliq has got registered a case against the private respondent Mugheem and others at police station Kot Samaba, District Rahimyar Khan being Crime No.278/2020 u/s 365-B PPC; that no offence as alleged has been committed by the applicant / proposed accused, whereas, the private respondent with *malafide* intentions and ulterior motives intends to register a false criminal case against the applicant/proposed

accused and others just to drag the proposed accused in false criminal case. He lastly prayed that the impugned order is liable to set-aside.

3. Learned counsel appearing for the private respondent and learned Additional PG appearing for the State supported the impugned order and prayed for dismissal of the instant application by contending that the 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 applicant / proposed accused, learned counsel for the private respondent, Additional PG for the State and perused the record. After filing of the application, the report was called from the DSP (Complaint Cell) Ghotki, which reveals that there is dispute between the parties over contracting love marriage of Mst. Shazia daughter of proposed accused Abdul Razak with Fazal-ur-Rehman, the son of the private respondent. Further there is another dispute between the private respondent and proposed accused No.4 namely Nazar Hussain over the money transaction, as such no offence has taken place, as alleged. I have perused the record, which clearly suggests that there is dispute between the parties over matrimonial affairs along with money transaction, whereas, the private respondent in order to convert the civil litigation into a criminal wants to get register a false criminal case against the proposed accused. The learned Ex-Officio Justice of Peace has not considered the above facts while passed the impugned order dated 29.01.2021, which is not sustainable. Accordingly, the instant Criminal Miscellaneous Application is allowed and the impugned order is set-aside. However, the private respondent is at liberty to file direct complaint of the incident before the competent Court of law, if so advised.

Judge