

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Application No.S-590 of 2022

[Muzamil Shah versus Senior Superintendent of Police Sanghar & Ors]

Date of hearing & Order:

02.12.222

Mr. Ghulam Shabbir Mari, advocate for applicant

Mr. Muhammad Yaseen Khaskheli, advocate for private respondents

Mr. Shawak Rathore, Deputy P.G Sindh

ORDER

ADNAN-UL-KARIM MEMON, J- This Criminal Miscellaneous Application has been directed against the order dated 13.08.2022 passed by learned 1st Additional Sessions Judge / Ex-Officio Justice of Peace Sanghar, whereby learned Judge declined the prayer of applicant for registration of FIR against proposed accused persons / private respondents and disposed of the application accordingly. The conclusion as tendered by learned Justice of Peace is reproduced below:

“In the light of above discussion, I am of the humble opinion that the applicant has not come before this Court with clean hands, this is not a fit case to issue directions to concerned police authorities for registration of FIR, therefore prayer of the applicant for registration of FIR is declined, while the SHO P.S Mangrli is directed to provide life protection to the applicant and his family members against harassment, (if any) caused by the proposed accused persons. However, this order would not affect any other Criminal/Civil matter/cases if filed or pending by the parties against the each other before the competent Court of Law/Forum. Application stands disposed of accordingly.”

2. Concise facts of the matter are that applicant had moved an application under Section 22-A & B Cr.P.C before learned Ex-Officio Justice of Peace Sanghar for registration of FIR against the proposed accused with the allegation that proposed accused had attacked upon his shop on 25.07.2022 and issued threats of dire consequences to withdraw from civil suit. The learned Justice of Peace after perusing the police report and hearing the parties disposed of the application in the manner as stated supra, hence this application.

3. Learned counsel for the applicant argued that learned Justice of Peace only relied upon the police reports / papers and failed to consider other material

available on record i.e. videos and photographs; that police officials are acting in aid of proposed accused; however, learned Justice of Peace has failed to consider the same; that impugned order is result of misreading and non-reading of material available on record, as such same requires interference by this Court.

4. Learned Deputy Prosecutor General, assisted by learned counsel for proposed accused vehemently opposed the present applicant and prayed for its dismissal on the premise that applicant had approached learned Justice of Peace with unclean hands, hence his plea has rightly been rejected.

5. I have heard learned counsel for the parties and perused the record with their assistance.

6. Perusal of record reveals that there is civil proceeding pending between the parties. Record further reveals that one of the proposed accused had already lodged FIR bearing No.42 of 2022 at P.S Mangli against the present applicant with the allegation that applicant had caused him firearm injury. Prima facie it appears that applicant had moved the application for registration of FIR to just pressurize the proposed accused persons to withdraw from their cases.

7. In view of the above learned Justice of Peace has rightly held that applicant had not approached with clean hands, therefore, no interference in the impugned order is required by this Court. Accordingly, captioned Criminal Miscellaneous Application is dismissed, leaving the applicant at liberty to avail the remedy, if any, under Section 200 Cr.P.C before the competent Court of law, however, it is made clear that same, if availed, shall be decided by the competent Court strictly in accordance with law, without being influenced by this order and / or order passed by learned Justice of Peace.

JUDGE

Sajjad Ali Jessar