

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.3-618of 2022

[Muhammad Younis Vs. S.P Complaint Cell Badin & others]

Applicant : Muhammad Younis through Mr. G.M. Laghari, advocate.

Respondents : Through Mr. Shewak Rathore learned Deputy Prosecutor General, Sindh,

Proposed Accused : Muhammad Haneef and Jameel Ahmed in person.

Date of hearing & order : 31.10.2022.

ORDER

ADNAN-UL-KARIM MEMON, J; Applicant has impugned the order dated 7.09.2022 whereby his application for registration of F.I.R against the proposed accused was dismissed by learned Ex-Officio Justice of Peace Badin.

2. Mr. G.M. Laghari learned counsel for applicant submits that applicant Muhammad Younas and respondent Muhammad Hanif are real brothers however due to dispute over landed property, his brother along with his accomplices set on fire, his motorcycle, thus committed cognizable offense; however upon approach to learned Ex-Officio Justice of Peace Badin he failed to issue direction to S.H.O concerned for registration of F.I.R. He, therefore, prayed for direction to SHO concerned for registration of FIR against accused.

3. Learned Deputy Prosecutor General, Sindh has supported the impugned order by the passed Learned Trial Court and prayed for dismissal of the instant Criminal Miscellaneous Application.

4. I have heard learned counsel for applicant and respondents who are present in person.

5. There is no denial of the fact that both the brothers are indulged in private dispute over landed property, learned Trial Court called report from the Police who opined that no cognizable offense took place, the view of Police Officer was concurred by learned Additional Session Judge, Badin vide order dated 07.09.2022.

6. The case of applicant is required to be looked into in terms of the ratio of judgment passed by Hon'ble Supreme Court in the case of *Muhammad Bashir Vs. Station House Officer Okara Cant. and others* (PLD 2007 SC 539).

7. Consequently, this Cr. Misc. Application is allowed with direction to SHO concerned to record statement of Applicant as well as private respondents and if the SHO reaches the conclusion that a cognizable offense is committed, he shall reduce the statement of applicant into 154 Cr.PC book, however no arrest shall be made until and unless, there is concrete evidence against the private respondents.

JUDGE

Karar_Hussain/PS*