

HIGH COURT OF SINDH

CIRCUIT COURT, HYDERABAD

Cr. Misc. Application No. 651 of 2022
[Faheem Haider versus Superintendent Complaint Cell & Ors]

Applicant : Through Mr. Zulfiqar Ali Chandio advocate
Respondents : Through Mr. Imran Ali Abbasi A.P.G
Proposed No.1 : Through Mr. Ayaz Ali Gopang advocate
Proposed Accused3&4: Present in person
Proposed Accused 2&5to7 : None present
Date of hearing : 14.10.2022
Date of order : 14.10.2022

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant Cr. Misc. Application, the applicant has impugned the order dated 29.09.2022, whereby his application seeking registration of FIR against the proposed accused has been dismissed by learned Ex-Officio Justice of Peace Shaheed Benazirabad.

2. Case of the applicant is that he and the proposed accused have a dispute over agricultural land and civil litigation in this regard is pending before District & Sessions Judge Shaheed Benazirabad. It is alleged in the memo of application filed before learned Ex-Officio Justice of Peace, that on 11.09.2022 he along with his brother Imran Haider was present at the land when at about 09:30 am proposed accused 1, 5 & 6 having lathi, proposed accused No.2 having Gun, proposed accused No.3 having Loarh, proposed accused No.4 having hatchet and proposed accused No.7 having Kundri came and proposed accused No.3 caused Loarh blow on the front side of head while proposed accused No.7 caused kundri blows on the legs and head of his brother, who fell; whereas proposed accused No.1 caused lathi blows to him and proposed accused No.2 caused gun butt blows on his face. He finally preferred an application before learned Ex-Officio Justice of Peace for registration of FIR, which was dismissed, hence this criminal miscellaneous application.

3. Mr. Zulfiqar Ali Chandio learned counsel for applicant argued that the impugned is opposed to law, facts, justice and equity; that after the incident the applicant approached PS Kazi Ahmed and obtained letter for medical treatment bearing No.544 of 2022 and after getting the treatment he approached PS Kazi

Ahmed for registration of FIR but the Duty Officer flatly refused; that the proposed accused are influential persons due to their influence the police party is not ready to take action against them; that learned Justice of Peace failed to appreciate the material evidentiary proof and decided the matter on so-called police report without considering the facts; that the impugned order is not based on good reasoning, which is required to be set aside. He lastly prayed for setting aside the impugned order and consequently sought direction against the SHO to record the statement of applicant under Section 154 Cr. P.C and incorporate it in FIR Book.

4. Mr. Ayaz Ali Gopang learned counsel for proposed accused; however, supports the impugned order and argued that FIR of the incident bearing No.186 of 2022 has already been lodged at PS Kazi Ahmed against the applicant party and multiple FIRs of the same incident with different versions of the parties cannot be lodged; that investigation of the FIR already lodged is being conducted by the I.O as such there is no need of second FIR of the same incident. In support of his contention he has relied upon **PLD 2018 SC 595**.

5. The decision of learned Trial Court shows that both the parties received injuries during quarrel took place and were referred for Medical Treatment. The learned Judge has refused the second FIR of the incident on the premise that no case for registration of second FIR was made out in terms of the ratio of judgment passed by Honorable Supreme Court in Sughra Bibi case reported as **PLD 2018 SC 595**.

6. I have heard learned counsel for the parties and perused the material available on the record.

7. In my humble view, the case of the present applicants does not fall within the parameters as settled by the Hon'ble Apex Court in the case of **Sughra Bibi supra in paragraph 27 (IV) (V) and (VII)**. Resultantly, this application is hereby allowed. Consequently, the impugned order dated 29.09.2022 is set-aside; however, the applicant may approach the Investigation Officer who may record his statement and proceed further under the law and if from his statement a cognizable offense is made out he shall record the same in 154 Cr. P.C book accordingly.

8. This application stands disposed of in the above terms.

JUDGE