

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. **S-26** of **2023**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on M.A No. 182/2023 (Urgency Application)
2. For orders on office objection at flag-A.
3. For order on M.A. No. 183/2023 (*Exemption Application*)
4. For hearing of main case.
5. For order on M.A. No. 184/2023 (*Stay Application*)

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16.01.2023

Mr. Naseem Ahmed Siyal, Advocate for the applicant.

ORDER

ZAFAR AHMED RAJPUT, J.- The respondent No.3 herein filed Crl. Misc. Application No. 08 of 2023, under section 22-A & B, Cr.P.C. (*Re: Asim Ali vs. The State, through D.P.G. Khairpur & others*) before the learned Sessions Judge/Ex-Officio Justice of Peace, Khairpur seeking directions to the respondent No.2 (*S.H.O., P.S. Tando Masti Khan*) to register FIR against the proposed accused who, on 09.12.2022, allegedly inflicted kicks and fists bows to him and illegally occupied his 06 guntas land. It was case of the respondent No.3 that the respondent No.2 refused to lodge his F.I.R. The said Crl. Misc. Application was heard and allowed by the learned Addl. Sessions Judge-IV / Ex-Officio Justice of Peace, Khairpur vide order, dated 09.01.2023, directing to respondent No.2 to record the statement of respondent No.3 and if a cognizable offence is made out, he should incorporated the same in the book under section 154, Cr.P.C. The I.O was; however, directed not to arrest the accused nominated in the FIR if concrete evidence is not available with him. It is against said order the applicant, who is one of nine proposed accused persons, has maintained instant Cr. Misc. Application under section 561-A, Cr. P.C.

2. Learned counsel for the applicant has mainly contended that the impugned order being against the law and equity is liable to be set aside; that no such

incident ever took place and the respondent No.3 managed a false story and filed a false application for lodging of FIR against the proposed accused persons; that there was a wall between the house of the applicant and *Otaq* of the respondent No.3, which was fallen down in the heavy rain of August, 2022 which the applicant party intended to reconstruct but the responded No.3 raised objection; on that, the applicant party approached to S.S.P., Khairpur by filing an application which was marked by him to respondent No.2, who on 09.12.2022 lodged FIR No. 159/2022 against the respondent No.3, which fact the learned Ex-Officio Justice of Peace failed to consider; hence, the impugned order being unsustainable in law is liable to be set aside.

3. Heard, record perused.

4. There can be no cavil to the proposition that once the allegation regarding commission of a cognizable offence is communicated to police, the police is duty bound to register a case. In the case of *Sana Ullah versus S.H.O, Police Station, Civil Line Gujrat and 3 others*(PLD 2003 Lahore 228) while interpreting Section 154, Cr.P.C, it was held that words used in Section 154 of the Cr.P.C “*every information relating to commission of a cognizable offence*” pertains only to the information so supplied and do not pertain to actual commission of the cognizable offence and that information supplied should be about an alleged commission of a cognizable offence irrespective of its truthfulness or otherwise and concerned police official has to satisfy himself only to the extent that the information is in respect of a cognizable offence. It was also held that at the time of first information report, accused persons named in the compliant have no right of hearing. It is, therefore, obvious that if there is an information regarding commission of a cognizable offence, the police officer concerned is under statutory obligation, without hearing the accused person, to enter it in the prescribed register.

5. It may be observed that every citizen has a right to get his complaint registered under Section 154 Cr.P.C. with local police when he makes out a cognizable offence. Failure of the concerned police officer to register a complaint so made or his resorting to delaying tactics, amounts to failure to discharge statutory obligations, attracts provisions of Section 22-A (6) (i), Cr.P.C; therefore, an aggrieved person is well within his rights to approach the Justice of Peace under said provisions of law with a prayer for registration of the F.I.R., and if the Justice of Peace comes to the conclusion that a cognizable offence is apparent from the data available on the record, he can pass an order for registration of the F.I.R. As such, the Justice of Peace is saddled with the administrative duty to redress the grievances of the complainants aggrieved by refusal of police officer to register their reports. However, he is not authorized to assume the role of investigating agency or prosecution. Even minute examination of the case and fact-findings upon the application and report of police is not included in the function of the justice of Peace. It may also be observed that a safeguard against false complaint is provided under section 182, P.P.C. whereby a person giving false information to an officer in-charge of a police station can be prosecuted for an offence punishable under Section 182 or Section 211, P.P.C.

6. For the foregoing facts and reasons, there appears no illegality or irregularity in the impugned order requiring any interference of this Court under its inherent powers under Section 561-A, Cr.P.C. Hence, this Crl. Misc. Application is dismissed in *limine*, along with listed application.

JUDGE