

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CR. MISC. APPLICATION NO.565/2021

Date

Order with signature of Judge

1. For order on office objection as at A.
2. For hearing of main case.

26.08.2022

Syed Arshad Hussain advocate for applicant
Mr. Faraz Fahim Siddiqui advocate for respondent No.4.
Ms. Amna Ansari, Addl. P.G.

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Heard and perused record.

2. Relevant paragraph of impugned order is reproduced
herewith:-

“5. Perusal of record shows that accused entered into tenancy agreement with the complainant vide agreement dated 01.05.2017 but same agreement, is also silent as to what fixture and furniture was available at the time of tenancy executed between the parties, hence proper entrustment of The property to accused is not established and in the sufficient material to establish the very first ingredient of section 406 PPC. It is pertinent to note here that as per clause 7 the said agreement tenant was liable to keep and maintain the said premises in good and rentable condition during the tenure of tenancy period, return the promises/fittings/fixtures in the same condition as at that time of occupation, shall not make any alteration or addition without written consent of the owner and shall make good any damages, to the premises/fitting/fixtures caused by the tenant or his/her servants/visitors. For the sake of arguments, if it is believed that, allegations of complainant against accused are true, despite that it comes within the ambit of breach of contract which is of purely civil nature and must be addressed at proper forum. But it seems that complainant has dragged civil nature dispute in the criminal proceedings.”

3. Perusal of above order reflects that report under section 173 Cr.P.C. filed by the investigation officer was not agreed upon by the learned Magistrate, accordingly cognizance was declined. Issue pertains to the damages in the rented premises and landlady

(complainant) is claiming that tenant (accused person) has damaged her property contrary to clause 7 of the tenancy agreement. Accordingly applicant would be at liberty to file suit for damages. Learned Magistrate has rightly concluded that this is not a case wherein cognizance is to be taken, hence Criminal Miscellaneous Application is dismissed.

J U D G E

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