

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. App. No. **S – 170** of **2023**

Fresh case

1. For orders on MA No.1533/2023 (U/A)
2. For orders on office objections at Flag-A
3. For orders on MA No.1534/2023 (Ex./A)
4. For hearing of main case
5. For orders on MA No.1535/2023 (Stay/A)

13.03.2023

Mr. Ghulam Shabir Bhutto, Advocate for applicants.

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O R D E R

ZAFAR AHMED RAJPUT, J. - The respondent No.3 herein filed Cr. Misc. Application No.276 of 2023, under Section 22-A & 22-B, Cr.P.C. (*Re: Allah Bachayo Dahot versus The State through D.P.P. Khairpur & 2 others*) before the Sessions Judge/Ex-Officio Justice of Peace, Khairpur seeking directions to respondent No.2 (*S.H.O., Police Station B-Section, Khairpur*) to register FIR against the applicants/proposed accused who, on 13.01.2023, allegedly inflicted *lathi* blows, kicks and fists to him and his witnesses and broke his house articles. It was case of the said respondent that respondent No.2 refused to lodge his FIR. The said Cr. Misc. Application was heard and allowed by the Additional Sessions Judge-II/ Ex-Officio Justice of Peace, Khairpur vide order dated 06.03.2023, directing to respondent No.2 to record the statement of respondent No.3 and if from his statement and medical certificate, a cognizable offence is made out, he should incorporate the same in the book under Section 154, Cr.P.C. and investigate the matter in accordance with law with further direction that if the statement of respondent No.3 is found false then respondent No.2 would be at liberty to initiate proceedings under section 182, Cr.P.C. against respondent No.3 and that the proposed accused shall not be arrested by the police unless tangible evidence is brought on record. It is

against said order that the applicants/proposed accused have maintained instant Cr. Misc. Application under Section 561-A, Cr. P.C.

2. Learned Counsel for the applicants contends that the impugned order being against the law and equity is liable to be set aside; that the Ex-Officio Justice of Peace only considered the contentions of respondent No.3 and failed to look at the matter deeply for just decision of the matter; 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*” pertain 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 complaint 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 Criminal Misc. Application is **dismissed in limine** along with listed applications.

Abdul Basit

J U D G E