

IN THE HIGH COURT OF SINDH ENCH AT SUKKUR

Crl. Misc. Application No. **S-56** of **2023**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on M.A No. 533/2023 (Urgency Application)
2. For orders on office objection at flag-A.
3. For order on M.A. No. 534/2023 (*Exemption Application*)
4. For hearing of main case.
5. For order on M.A. No. 535/2023 (*Stay Application*)

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25.01.2023

Mr. Shafquat Ali Maitlo, Advocate for the applicant.

ORDER

ZAFAR AHMED RAJPUT, J.- The respondent No.4 herein filed Crl. Misc. Application No. 6150 of 2022, under section 22-A & 22-B, Cr.P.C. (*Re: Mst. Sameena vs. The State, through D.P.G. Khairpur & 2 others*) before the learned Sessions Judge/Ex-Officio Justice of Peace, Khairpur seeking directions to the respondent No.2 (*S.H.O., P.S. B-Section, Khairpur*) to register FIR against the applicant/proposed accused who, on 20.07.2020, allegedly issued a cheque bearing No. 72621976, amounting to Rs. 40,00,000/-, for purchasing of land, admeasuring 30 acres, situated in Nawabshah, which was dishonored by the bank on being presented. It was case of the said respondent that the respondent No.2 refused to lodge her FIR. The said Crl. Misc. Application was heard and allowed by the learned Addl. Sessions Judge-II/Ex-Officio Justice of Peace, Khairpur vide order, dated 23.01.2023, directing to respondent No.2 to record the statement of respondent No.4 and if from her statement coupled with cheque and memo, a cognizable offence is made out, he should incorporated 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 the applicant is found false then the respondent No.2 would be at liberty to initiate proceedings under section 182, Cr.P.C. against the

applicant 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 applicant/proposed accused has maintained instant Cr. Misc. Application under section 561-A, Cr. P.C.

2. Learned counsel for the applicant contains that the impugned order being against the law and equity is liable to be set aside; that the learned Ex-Officio Justice of Peace only considered the contentions of the respondent No.4 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*" 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