

HIGH COURT OF SINDH

CIRCUIT COURT, HYDERABAD

Cr. Misc. Application No. 569 of 2022

[Mst. Mehrunisa versus The Learned Sessions Judge Tando Allahyar & Ors]

Applicant : Through Ms. Samina Ajmaree advocate
Private respondents : Through Muhammad Adeel Qureshi, Advocate
The State : Through Mr. Imran Ahmed Abbasi A.P.G
Date of hearing & Order : 08.05.2023

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant Cr. Misc. Application, the applicant has impugned the Order dated 17.06.2022, passed by Sessions Judge/Ex-Officio Justice of Peace Tando Allahyar in Cr. Petition No. 284 of 2022 whereby her application / petition filed under Section 22-A & B-6(i) Cr. P.C, seeking registration of FIR against private respondents has been disposed of with certain directions.

2. Brief facts of the case are that the applicant moved an application before District Judge / Ex-Officio Justice of Peace, Tando Allahyar whereby she sought registration of FIR against private respondents on the allegation that on 19.05.2022 at about 11:00 p.m her son namely Kamran was coming from Tando Allahyar along with his friends namely Haider and Irfan on their motorcycle and on the way they stopped their bike at Mini Mart to purchase drinking water bottle, where private respondents were present in intoxication condition, they started abusing her son as well as his friends and also issued threats of dire consequences; that thereafter her son Kamran and his friends Haider and Irfan left the Mart and private respondents, who were duly armed chased them and started firing upon them, which hit them, due to which Haider expired at the spot while her son Kamran and Irfan were shifted to hospital in injured condition. Learned Justice of Peace after hearing the parties and perusing the police reports disposed of the application through impugned order. An excerpt of the order is reproduced:-

“From the bare reading of above observation of apex court, it becomes crystal clear that no separate F.I.R. regarding new version of same incident to be recorded.

In these circumstances, instant applications stand disposed off with direction to both the parties to approach the investigating officer of already lodged F.I.R. bearing No. 103 and 104 of 2022, for redressal of their grievance, if any.”

3. This Court vide order dated 09.12.2022 directed IGP, Sindh to assign the investigation of Crime No. 103/2022 and Crime No. 104 of 2022 of PS A-Section Tando Allahyar to any honest officer for carrying out further investigation in the matter and record the statements under Section 161 Cr.P.C of petitioners and others and proceed further as mandated by law.

4. The investigating officer has submitted report under Section 168 Cr. PC and recommended as under:

“It is submitted that we have been assigned the crime No. 103/2022 under section 392, 324, 34 PPC and Crime No. 104/2022 Under section 23(1) A of PS A Section Tando Allahyar for further investigation and we have completed the investigation. Moreover, we have visited the place of incidence, recorded the statements of 161 Cr.P.C of the complainant which incorporate the statement of the previous PWS as well as incorporate the statements of FIR. Moreover, we have recorded the statement of 161 Cr.P.C of the impartial witnesses which equally support the version of the FIR. The accused persons robbed the unregistered Honda 125 Motorcycle from the owner Syed Afzal Pathan S/o Gul Afzal Pathan R/o Tando Hyder Taluka and District, Hyderabad on 15.04.2022 time 2130 hours near Mirza Bagh Qaburstan. Such report was also registered at PS Hosri the copy of the report and the copy of the statement 161 Cr.P.C of Syed Afzal Pathan is also attached herewith.

Respected sir, the application of the petitioner has no any truth and all the allegations leveled upon are baseless and fabricated. The sole purpose of the applicant is to pressurize the Police and the complainant of the case moreover, the applicant wanted to escape her son and other accused from the case and seek some relief from the Court. Moreover, the District and Session Judge Tando Allahyar has already dismissed the application of 22-AB submitted by Mst. Meher un Nisa. Furthermore, the Court has declined the bail application of her son namely Kamran. Furthermore, her elder son namely Imran has committed the murder of his sister Mst. Nasreen @ Ghulam Fatima such FIR was registered Crime No. 156/2017 under section 302 and crime No. 165/2017 under section 23 (1) A at PS Tando Jam and these cases have already been challaned. The case is registered against the above mentioned accused at PS B-Section Tando Allahyar Crime No. 66/2022 under section 3952, 34 PPC.

We have investigated thoroughly as we have recorded the statement of the accused, received the criminal record the accused and the statement of the eye witnesses our investigation team came on the conclusion that the above mentioned accused persons namely Kamran Parhyar, Mohammad Irfan @ Irfan Pahore and Irfan Hyder @ Hyder Shaikh are real accused in the crime No. 103/2022 under section 392, 324, 34 PPC and crime No. 104/2022 under section 23(1)A of PS A Section Tando Allahyar. The investigation team recommends that the further investigation which has been carried out may be included in the case proceedings, statement of the further witnesses, and other relevant

evidences and case property may be included. Moreover, the section 324 PPC excluded and section 100 PPC may be included in the charge sheet. A fresh charge sheet (report of 173 (i) Cr.PC) may be prepared and submitted to the concerned court. moreover, the then SHO namely Inspector Mazhar Ahmed Mehdi, I/O S.I Umeed Ali Lakho and WHC-458 Munawar Hussain showed their negligence and poor professionalism in the heinous crimes and such as crime No. 103/2022 and crime No. 104/2022 of PS A Section Tando Allahyar. The liability of the delinquency against the Police officers is submitted separately vide 117, dated 20.01.2023 to the concerned quarters. Therefore, this investigation team recommends departmental action against the above mentioned Police officers/official and such report may be sent separately.

It is pertinent to mention here that this report was prepared and all activities were made under the supervision of your good self and such entries have already been made in the relevant Police Stations.”

5. Since the purpose of filing of this application has been served in terms of order dated 9.12.2022, no further deliberation on the part of this court is required after perusing the report of the Investigation Officer; therefore, this Criminal Miscellaneous Application stands disposed of with direction to the investigating officer to place the report before the competent court for appropriate orders; however, after providing hearing to the parties.

JUDGE

Sajjad Ali Jessar