

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Misc. Application No. 757 of 2023

Date	Order with signature of Judge
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1. For hearing of main case

06.11.2023

Mr. Saeed Ahmed Khoso advocate for the applicant
Mr. Muhammad Hanif advocate for the respondent
Mr. Sharafuddin Jamali AAG along with P.I/SDI Asghar Ali P.S Sohrab
Goth & SIP Muhammad Tariq of PS KIA.
Ms. Rubina Qadir DPG

Through this Criminal Miscellaneous Application under Section 561-A Cr. P.C, the applicant Muhammad Asad Arif has assailed the vires of the order dated 05.09.2023 passed by the learned VIth Additional District Judge Karachi East in Criminal Miscellaneous Application No. 3390 of 2023 on the premise that there appears to be a civil dispute between the parties as the applicant's wife had already lodged F.I.R against the proposed accused.

2. Learned counsel for the applicant submitted that the facts narrated by the complainant constitute cognizable offenses. He has, therefore, requested an order for the registration of a criminal case against the proposed accused.

3. I have given due consideration to the submission made and have carefully gone through the contents of the application as well as the application addressed to the SHO and trial Court. It is settled law that even if there is no direction of the Court, the S.H.O. has no authority to refuse to record the statement of the complainant in the relevant register irrespective of its authenticity/correctness or falsity of such statement. In this context the Supreme Court in the case of Muhammad Bashir vs. Station House Officer, Okara Cantt. and others (PLD 2007 Supreme Court 539) in para-25 and 26 have categorically held that S.H.O. has no authority to refuse to register FIR under any circumstances. He may refuse to investigate a case but he cannot refuse to record FIR.

4. The check against the lodging of false F.I.Rs was not the refusal to record such F.I.Rs, but the punishment of such informants under Section 182, P.P.C., etc. which should be, if enforced, a fairly deterrent against misuse of the provisions of Section 154, Cr.P.C.

5. In my humble opinion, certain offenses as argued by learned counsel for the applicant has to be ascertained by SHO. The applicant has to approach the SHO concerned to record his statement.

6. This Criminal Miscellaneous Application is disposed of in the above terms.

JUDGE

