

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Misc. Application No.538 of 2023

Date

Order with signature of Judge

1. For hearing of main case
2. For hearing of MA No.9981/2023

30.11.2023

Mr. Abrar Raza Ghumro, advocate for the applicant.

Mr. Abrar Khichi, Addl. P.G Sindh a/w SIP Noor Ahmed
PS Manghpir

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Through this Criminal Miscellaneous Application, the applicant has called in question the order dated 31.7.2023 passed by learned Additional Sessions Judge-IX West Karachi, whereby directions were issued to the concerned PS for registration of the FIR against the applicant. Learned counsel states at the bar that there is no offense of whatsoever nature despite that the direction has been issued to lodge an FIR against the applicant. He further submits that the alleged offense is not cognizable and cannot be registered until and unless the Magistrate grants the said permission. By stating so, he sought to set aside the impugned order.

Notice was issued to the private respondent but he has chosen to remain absent.

Learned Addl. P.G submits that from the contents of the application moved by the private respondent Shoukat Hussain no cognizable offense was made out however on the direction of the learned Additional Sessions Judge-IX West Karachi, the police submitted a report under Section 155 Cr. P.C. before the concerned Court and to date, no FIR has been registered.

I have heard learned counsel for the applicant and have perused the material available on record.

It appears from the record that there is a civil dispute between the parties and SHO PS Manghopir submitted a report to the learned trial Court with the narration that no offense of dragging the private respondents by the police officials and nothing was taken away from him and the private respondent to avoid from his illegal activities he has dragged the applicant in the present case.

Since the parties have leveled allegations and counter-allegations against each other on the issue of the alleged happening with the applicant at the hands of the police and he is also not in attendance the reasons best known to him whereas the police has

denied the allegations and submitted a report under Section 155 Cr. P.C about the non-cognizable offense in which FIR cannot be lodged without permission of the Magistrate, because of the facts and circumstances of the case coupled with the report discussed supra, judicial propriety demands that the aggrieved party may take the resort of appropriate remedy under the law where he would be at liberty to bring the material to prove his case as in the present case the offense as alleged has been reported to be a non-cognizable offense and no FIR can be registered for such an offense and it is open for the respondent/complainant to file a Direct Complaint and if files the same shall be decided on its own merits. Resultantly the impugned order dated 31.07.2023 passed by the learned IX Additional Sessions Judge/Justice of Peace Karachi West is set aside.

J U D G E

Shahzad Soomro

