

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl.Misc.Appln.No. S – 782 of 2023.

Date	Order with signature of Judge
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For Hearing of main case.

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29-01-2024.

Mr.Shabeer Ali Bozdar Advocate for applicants.
Mr.Deedar Ali Chohan Advocate for respondent
No.4.
Mr.Sardar Ali Shah Addl.P.G.

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ZULIFQUAR ALI SANGI, J- Through this miscellaneous application, applicants have assailed the order dated 25.10.2023 passed by the learned Ist. Additional Sessions Judge/Model Criminal Trial Court (MCTC), Naushahro Feroze in Crl.Misc.Application No. 3866 of 2023 whereby certain directions were issued to the respondent No.3/SHO P.S, Mubhbat Dero including registration of FIR against the applicants.

2. Heard arguments of the learned counsel for the parties and perused the material available on record.

3. The Para No.3 of the impugned order reflects that 03 detainees namely Muhammad Sharif, Luqman and Zohaib Ali were recovered on the directions of the trial Court whereas the report of Raid Commissioner submitted by the counsel for the respondent No.4 shows that the detainees Muhammad Shareef, Luqman, Zohaib Ali, Imam Bux and Farooq Ahmed were not found in the police lockup while the mashirnama dated 06.10.2023 submitted by the counsel for the applicants under the cover of statement reveals that detainees Muhammad Shareef, Luqman and Zohaib Ali were arrested in Crime No.91 of 2023 registered at Police Station, Mohbat Dero.

4. The report submitted by the Police indicates that against Mithal alias Mithu s/o Jado 27 cases, Ashraf s/o mithal 15 cases, Abdul Hafeez s/o Abdul Hakeem 11 cases, Rizwan s/o Mithal 07 cases, Abdul Sattar son of Soomar 04 cases, Bisharat s/o Mitho 03 cases, Sajjad s/o Mitho 02 cases, Kaloo alias Qalandar Bux s/o Mitho 02 cases and Sharif s/o Mumtaz 02 cases have been registered, which pertains that they are hardened criminals and false applications were moved against the police officials, who acted in accordance with law but the learned Justice of Peace while passing the impugned order has not properly appreciated the same and passed the order in a haphazard manner, which suffers from legal infirmity otherwise this was not a fit case to issue direction for registration of FIR.

5. Further, it is observed that the provisions of Section 22-A, Cr.P.C have been misused in a number of cases. The Courts in mechanical manner should not allow application under section 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice but as per record submitted by the police, it reflects that it was tainted with malice. Consequently, while setting aside the impugned order dated 25.10.2023, the application filed by the applicants (Crl. Misc. Application No. S – 782 of 2023) is hereby allowed.

JUDGE

