

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Miscellaneous No.S-166 of 2024
Azizullah Vs. SHO PS Mithiani & others

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on O/objection at flag-A.
2. For hearing of main case.

Date of hearing and order 06.05.2024

Mr. Rameez Ali Lund, Advocate for applicant.
Mr. Abdul Qadir Khanzada, Advocate for respondent No.2.
Miss. Shabana Naheed, Assistant Prosecutor General.

ORDER.

Adnan-ul-Karim Memon J:- Through these Criminal Miscellaneous Application under Section 561-A Cr. P.C, the applicant Azizullah has assailed the vires of the order dated 29-03-2024 passed by the learned Ist Additional Sessions Judge/Ex-Officio Justice of Peace Naushahro Feroze in Criminal Miscellaneous Application No. 892/2024 whereby his Criminal Miscellaneous application was dismissed on the premise that no circumstances were attracted for issuance of direction for registration of the FIR against the proposed accused.

2. Mr. Rameez Ali Lund advocate for the applicant has contended that cognizable offenses have been committed by the proposed accused as such directions for FIR be given to the SHO of the concerned police station; that the registration of FIR is a basic right of citizen and victim, which unfortunately has been made like an unfulfilled dream for the poor citizens of the province of Sindh and due to the political influence and intervention of advocates of Bar, the registration of the FIR is not less than a miracle for common people. He lastly prayed for allowing these

Criminal Miscellaneous Application with direction to the concerned SHO to record his statement under Section 154 Cr. P.C.

3. Mr. Abdul Qadir Khanzada advocate for Respondent No. 2 has argued that the applicant initially approached to Moro Hospital though the alleged incident took place within the jurisdiction of Mithiani Police Station; as such he managed the story to involve his rivals in the civil dispute. Per learned counsel that initially alleged injured was brought at police station and applicant failed to give name of any accused, but subsequently he changed his mind to victimize his political opponent to pressurize his rivals in civil dispute which is apathy on his part. He prayed for dismissal of the instant CrI. Misc. Application.

4. Learned Assistant P.G for the State has supported the impugned order.

5. I have heard learned counsel for the parties and have perused the record with their assistance.

6. 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.

7. 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 fair deterrent against misuse of the provisions of Section 154, Cr. P.C.

8. Since the parties have leveled allegations and counter allegations against each other on the issue of the alleged offence of causing injury to the victim Saqib Ali as Jurah Ghayr Jaifah Mutalahima, as opined by Taluka Hospital Moror vide letter dated 15-04-2024; and, interference of some influential and SHO may not be in a position to sort out the matter of aggrieved party, therefore, judicial propriety demands that the both the parties shall appear before the SSP Naushahro Feroze within two days and after hearing them, if he finds a cognizable offence committed by the private respondents, he may direct the concerned SHO to record his statement and if he finds that the complainant has managed the story then appropriate action may be taken against him in accordance with law. However at this stage, the learned counsel for the applicant/complainant is still insisting for registration of his FIR. Prima-facie, once the learned Justice of Peace has formed his point of view, this Court cannot substitute its view, but at the same time, I deem it appropriate to refer the matter to SSP Naushahro Feroze to look into the allegations and counter allegations of the parties and decide whether cognizable offence is made out or otherwise, which decision shall be made on merits. Resultantly, the instant Criminal Miscellaneous Application is disposed of leaving the parties to approach SSP Naushahro Feroze within two days.

9. The aforesaid exercise shall be undertaken within one week time.

J U D G E