

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 938 of 2023

Date of hearing	Order with signature of Judge
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Hearing of case (Priority)

1. For orders on MA No.7845/2023 (Ex.A)
2. For hearing of main case
3. For hearing of MA No.7846/2024 (S/A)

07.05.2024

Syed Zafar Ali Shah Bukhari, Advocate for Applicant
Mr. Sundar Khan Chachar, Advocate for respondent
No.4
Syed Sardar Ali Shah Rizvi, Additional PG for the State

ORDER

Muhammad Iqbal Kalhoro, J;- Respondent No.4 filed an application before Justice of Peace/Additional Sessions Judge-I, Sukkur under Section 22-A and 22-B, CrPC, seeking direction for registration FIR against applicants, the police officials, alleging murder of his brother Sudheer in a fake encounter by them after taking him away from his house on 29.11.2023. This application was contested by the applicants tooth and nail but has resulted in impugned order whereby directions have been issued to SHO Police Station Site Area, Sukkur to record statement of applicant / respondent No.4 and proceed in accordance with law, if any cognizable offence is made out.

Learned counsel for applicants submits that the deceased was a notorious criminal, against whom 60 cases were registered, he was killed in police encounter, the FIR of which Crime No.220 of 2023 was registered, in which challan has been submitted, and in view of the ratio laid down in *Sughran Bibi's*

case reported as (PLD 2018 SC 595), the impugned order is not sustainable.

His arguments have been opposed by learned counsel for respondent No.4; however, learned Addl. PG submits that it is right of respondent No.4 that his version be recorded and duly investigated. I, therefore, find no illegality in the impugned order, not the least when version of respondent No.4 was neither considered by the Investigating Officer of Crime No.220 of 2023 nor brought on record in the report submitted under Section 173 CrPC, to enable the Court to take cognizance of such facts and issue process against the proposed accused, if allegations against them were found based on solid material. It is apparent that Investigating Officer of Crime No.220 of 2023 did not take into account the ratio laid down by Supreme Court in the *Sughra Bibi's* case and sidelined respondent No.4 and his version of events. This being the position, I hereby dismiss this application along with listed applications, however, if any case is registered against the applicants as a result of statement of respondent No.4, it shall be investigated by a senior police officer not below the rank of DSP, who shall not proceed to arrest the applicants until and unless some tangible evidence in support of allegations is found against them.

This application is accordingly disposed of.

Judge