

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-15 of 2023

(Mushatque Ali Khoso Vs. The State & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For hearing of main case.

Date of hearing and Order 13-05-2024

Applicant Mushtaque Ali Khoso in person.

Proposed accused Inspector Jamil Ahmed Soomro and Khalid in person.
Mr. Gulzar Ahmed Malano, Assistant, P.G for the State along with DSP
Nazir Ahmed Soomro SDPO Pir Jo Goth.

ORDER.

Adnan-ul-Karim Memon J:- This Crl. Misc. Application has been filed by the applicant Mushtaque Ali Khoso against, Station House Officer Police Station Ahmedpur, and two proposed accused, including police officer Jameel and a private person. The applicant has prayed that respondent No.1 / Station House Officer Police Station of Ahmedpur be directed to register his F.I.R. against the proposed accused and that the proposed accused be directed to return to the applicant the articles robbed by them from him. The applicant is also aggrieved by and dissatisfied with the order dated 23-12-2022 passed by learned IIIrd Additional Sessions Judge/Ex-Officio Justice of Peace Khairpur passed in Crl. Misc. Application No. 5094/2022, whereby the application under section 22-A & B Cr. P.C. filed by him for registration of the FIR was dismissed.

2. The applicant who is present in person has narrated his ordeal the Police Inspector Jameel along with his accomplices robbed him of cash within the jurisdiction of PS Ahmedpur, but SHO refused to register his FIR just to support his colleague Zaffar and Muhammad Jamil, hence he filed such an application before the Ex-Officio Justice of Peace, Khairpur for registration of the FIR, but the same was also dismissed, hence he preferred the instant Crl. Misc. Application inter-alia on the ground 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, the registration of the FIR is not less than a miracle for

common people. He lastly prayed for allowing the Criminal Miscellaneous Application with direction to the concerned SHO to record his statement under Section 154 Cr. P.C. He submits that the police officials re indulged in many criminal cases including Inspector Jameel Khoso who has already been undergoing disciplinary proceedings by the then SSP Khairpur and recovered the detainee from his custody; the applicant further submitted that the police officials are robbing the people under garb of the police uniform and weapon and their activities are rampant in the society at large, as such the Chief Justice of this Court has already taken cognizance of the matters and directed that the police officials who are indulged in criminal activities be brought to book forthwith.

3. The proposed accused 3 to 5 have filed detailed objections to oppose this CrI. Misc. Application on the premise that there was/is dispute over the property and both the private respondents are nephews of the applicant and civil litigation is pending before the Court of law; that no any adverse remarks had been passed by the then SSP Khairpur against Inspector Jameel as portrayed by the applicant. SDPO Pir Jo Goth has filed statement with CRO report of respondent No.3 Zaffar and respondent No.4 Khalid and opined that no criminal record was found against them.

4. The aforesaid stance has been refuted by the applicant.

5. I have given due consideration to the submission made by the parties and have carefully gone through the contents of the instant Criminal Miscellaneous Application as well as the application addressed to the SHO concerned and learned IIIrd Additional Sessions Judge/Ex-Officio Justice of Peace Khairpur in Criminal Miscellaneous Application No. 5094/2022.

6. The law on this point is now well settled that in case of a cognizable offence, the complainant has to approach the Officer Incharge of such police station under whose jurisdiction such offence is said to have been committed. In such an event, the Officer Incharge of the concerned police station has no authority to refuse to record the complainant's statement and/or to refuse to register an F.I.R. on his complaint. If the said concerned Officer Incharge fails or refuses to record the complainant's statement and/or to register his F.I.R., then the complainant has to approach the Justice of Peace under Section 22-A

Cr.P.C. On such complaint/application, if the Justice of Peace forms his independent opinion from the facts narrated to him by the complainant that a cognizable offense has been made out, the Justice of Peace is bound to issue a direction to the concerned Station House Officer for the recording of F.I.R. He submitted 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.

7. So far as the role of the police officials in criminal activities is concerned, the Supreme Court of Pakistan in the case of Muhammad Ismail Lashari & others Vs. Government of Sindh and others (2016 SCMR 2098), wherein it was observed as under:-

“conduct prejudicial to good order or service discipline or conduct unbecoming of an officer and a gentleman or involvement or participation for gain either directly or indirectly in industry, trade or speculative transactions or abuse or misuse of the official position to gain undue advantage or assumption of financial or other obligations to private institutions of persons such as may cause embarrassment in the performance of official duties or functions”.

8. Similarly, “misconduct” based on which disciplinary action can be taken under the Sindh Police (Efficiency and Discipline) Rules 1988 means:

“Misconduct” means conduct prejudicial to good order or discipline in the Police Force, or contrary to the government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any provision of any law or rules regulating the function and duty of a Police Officer or to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.”

9. Primarily it is the prime duty of the superior officers in the police hierarchy to ensure discipline within the police force, which is a public service, and also to keep a strict check on the conduct of such police officers. A constant watchful eye on the police officer is the need of the day and if the Competent Authority concludes that the police officer has indulged in acts of misconduct that prove incorrigibility and render complete unfitness of such

police personnel in the service, then the Competent Authority should award the penalty of dismissal from service.

10. Touching the role of police officials, upon perusal of Police Rule 16.2, its scope is wide and the object behind it is to discipline the police force and to ensure that the police officers in uniform shall not behave in a manner which, entails patronizing crime or other social evils. The scheme which seems behind the Rule is to ensure that the police officials in the discharge of their duties shall act in a manner that should restore confidence in the public at large. It is well-settled law now that if a police official with such a patchy record is allowed to continue in service, it would not only damage the image of the police force but will also encourage social evils in the society, which the police force is required, to eliminate.

11. In view of the above facts and circumstances of the case, DIGP Sukkur is directed to screen out all police officials performing duties in the Sukkur Region with patchy service records in their dossier and initiate departmental proceedings against them forthwith and complete such proceedings within a reasonable time under the dicta laid down in an identical case by the Supreme Court in the case of *Muhammad Ismail Lashari & others Vs. Government of Sindh and others* (2016 SCMR 2098. He is also directed to ensure discipline within the Sukkur Region police force, which is a public service, and also to keep a strict check on the conduct of such police officers who are indulged in criminal activities in the Sukkur region. He shall also ensure that the police officials who are good in reputation be posted on administrative posts and the officers who are indulged in criminal cases and facing criminal trial shall be taken care of in accordance with law.

12. This Criminal Miscellaneous Application is disposed of in the above terms. In the meantime, the applicant and police officials shall also be heard on the subject issue by DIGP Sukkur and pass necessary directions if a cognizable offense is committed by the police officials.

13. Let a copy of this order be communicated to the Deputy Inspector General of Police, Sukkur for information and compliance.

JUDGE

Nasim/P.A