ORDER SHEET IN THE HUGH COURT OF SINDH, KARACHU

Crl. Misc. Appl. No.21 of 2023

(Hussain Bux Soomro v. 1st Additional Sessions Judge /Ex Officio Malir Karachi and others)

Date

Order with signature of Judge

- 1. For orders on office objection A
- 2. For orders on MA No.473/2023
- 3. For hearing of main case

21.05.2024

Applicant in person Ms. Seema Zaidi, Additional Prosecutor General for the State Proposed accused Hadi Bux in person

- Overruled. 1.
- 2. Granted subject to all just exceptions.
- 3. Based on the allegation of a trespass in his house and use of the criminal force, the applicant by making an application u/s 22-A/B Cr.PC sought direction against SHO PS Bin Qasim Town Malir to record his FIR; it was dismissed by learned 1st Additional Sessions Judge/Ex-Officio Justice of Peace Malir Karachi vide order dated 02.11.2022, which is impugned by the applicant before this Court by way of instant Crl. Misc. Application u/s 561-A Cr. PC.

It is contended by the applicant that the cognizable offence has taken place, therefore, learned Ex-Officio Peace of Justice ought not to have dismissed his application by way of impugned order; the same being illegal is to be set aside by this Court with direction to SHO PS Bin Qasim Town to record his FIR for the same incident, which is opposed by learned Addl. PG for the State and one of the proposed accused named Hadi Bux contending that no incident as alleged by the applicant has taken place.

Heard arguments and perused the record.

The parties appear to be disputing with each other over the possession of the subject house. A complaint filed under the provisions of the Illegal Dispossession Act, 2005, as per the impugned order is pending before the Apex Court. In these circumstances, the best course available for the applicant is to exhaust his remedy by filing a direct complaint of the incident. No illegality even otherwise is noticed in the impugned order which may justify this Court to interfere with the same by way of the instant Crl. Misc. Application u/s 561-A Cr. PC; it is dismissed accordingly.

JUDGE

Nadir*