

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.
Criminal Misc. Application No. S-92 of 2024

DATE ORDER WITH SIGNATURE OF HON'BLE JUDGE

Fresh case.

1. For orders on MA No.925/2024 (U/A)
2. For orders on office objections at Flag 'A'
3. For orders on M.A No.926/2024 (Ex)
4. For orders on M.A No.927/2024 (561-A Cr.P.C)
5. For or hearing of main case.

07.03.2024.

Applicant Nazir Ahmed Lanjwani, present in person.

..-.-

1. Granted.
2. Deferred.
3. Granted.

4&5. The applicant appearing in person submits that he has approached concerned police for lodging of FIR of alleged incident of theft and harassment caused by the proposed accused persons. However his FIR was not registered, therefore, he has approached learned Additional Sessions Judge, IV/Ex-Officio Justice of Peace, Khairpur for filing Criminal Misc. Application No. 1894/2023 with the request that directions may be issued to the concerned SHO to register FIR of the alleged incident, however, through impugned order dated 25.05.2023, such application has been dismissed, therefore, instant Criminal Misc. Application has been filed with the prayer that the impugned order may be set aside and directions may be issued to the concerned SHO to lodge an FIR against the proposed accused persons of the alleged offence.

Mr. Aftab Ahmed Shar, Additional Prosecutor General waives notice, however, after perusal of the impugned order passed by learned Additional Sessions Judge-IV Khairpur submits that prima facie no cognizable offence could be made out by the applicant for registration of FIR of the alleged offence, whereas learned Ex-Officio Justice of Peace

Khairpur while issuing order and after taking cognizance of the material placed before him and keeping in view the pendency of civil dispute between the parties has been pleased to pass the appropriate order by placing reliance on the case of Muhammad Mushtaque vs. The State (2008 YLR 2301) wherein it has been held that unless a cognizable offence is made out and some material is produced to connect the proposed accused with the alleged offence/crime, the Ex-Officio Justice of Peace is not obliged to issue direction for registration of FIR in a mechanical manner and has to examine a prima facie case and sufficient material which may appeal to the prudent mind regarding occurrence of the incident/offence, therefore, the impugned order does not require any interference. It has been further contended that the applicant is at liberty to file direct complaint under Section 200 Cr.P.C before the Court having jurisdiction on similar set of allegations which can be proceeded in accordance with law and the applicant can produce the material evidence as may be available to establish the allegations.

In view of above facts and circumstances of the case and from examination of the material and the impugned order dated 25.05.2023 passed by learned Additional Sessions Judge-IV/Ex-Officio Justice of Peace, Khairpur I am of the opinion that the impugned order does not suffer from any factual error or legal infirmity, therefore, does not require any interference, therefore, instant Criminal Misc. Application is dismissed in limine. However, the applicant is at liberty to seek further remedy as available to applicant including filing direct complaint, which may be ~~possibly~~ examined by the concerned Court in accordance with law.

Chief Justice