

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Criminal Misc. Application No. 371 of 2024

| | |
|------|-------------------------------------|
| Date | Order with Signature(s) of Judge(s) |
|------|-------------------------------------|

Fresh Case.

1. For order on M. A. No. 6568/2024 (*Urgency Application*)
2. For order on office objection
3. For order on M. A. No. 6637/2024 (*Application for Permission to Plead the Case*)
4. For order on M. A. No. 6569/2024 (*Exemption Application*)
5. For hearing of main case
6. For order on Misc. Application No. 6643/2024 (*Stay Application*)

14.06.2024

Mr. Shahabudin Tunio, advocate for applicant.

1. Urgency Application is allowed.
 2. Office Objections are deferred for the time being.
 3. Permission is granted to advocate, who is not enrolled as an advocate High Court, to plead the case.
 4. Exemption application is allowed subject to all just exceptions.
- 5 & 6.** The respondent No.3 herein filed Cr. Misc. Application No. 751/2024 ("**Application**") under section 22-A & B, Cr.P.C. (*Re: Allah Bux vs. SSP, Badin & another*) before the Sessions Judge/Ex-Officio Justice of Peace Badin, seeking directions to respondent No. 2 (*S.H.O., P.S. Badin*) to register his F.I.R. as per his verbatim. The Application was heard and allowed by the 2nd Addl. Sessions Judge/Ex-Officio Justice of Peace Badin, vide order dated 08.06.2024, observing that it is settled law that every Station House Officer is bound to record the statement of an informant and if the same discloses commission of a cognizable offence, he is bound to incorporate it in a book provided under section 154, Cr.P.C. The respondent No.2, therefore, was directed to record the statement of the respondent No.3 and register the F.I.R. provided the statement makes out cognizable offence; however, he was restrained from arresting the accused unless tangible evidence is collected connecting them with the commission of offence and in case the F.I.R. is found to be false in investigation, the respondent No.3

would be liable to be prosecuted under section 182, P.P.C., as held by the Hon'ble Supreme Court in the case of (1) *Muhammad Bashir vs. Station House Officer* (PLD 2007 SC 539) and *Govt. of Sindh vs. Raeesa Farooqui* (1999 SCMR 1283). It is against said order that the instant Cr. Misc. Application has been preferred by the applicant/proposed accused under section 561-A, Cr. P.C.

Learned counsel for the applicants contends that the impugned order is not sustainable in law; that the respondent No.3 obtained a false and fabricated MLC from MLO, Badin on 24.05.2024 and then he filed the Application; that the applicant has already moved an application to D.G. Health, Services Department, Govt. of Sindh challenging the MLC issued by the MLO; that the applicant is innocent and has falsely been involved in this case with mala fide intention and ulterior motives; therefore, the impugned order is liable to be set aside.

It is now well-settled that once the information regarding commission of a cognizable offence is passed on to police, they are duty bound to register a case. In the case of *Sana Ullah versus S.H.O, Police Station, Civil Line Gujarat and 3 others* (PLD 2003 Lahore 228), it was observed that words used in section 154 of the Cr.P.C "every information relating to commission of a cognizable offence" pertains only to the information so supplied and do not pertain to actual commission of the cognizable offence and that information supplied should be about an alleged commission of a cognizable offence irrespective of its truthfulness or otherwise and concerned police official has to satisfy himself only to the extent that the information is in respect of a cognizable offence. It was also observed that at the time of first information report, accused persons named in the complaint have no right of hearing. It is, therefore, obvious that if there is an information regarding commission of a cognizable offence, the police officer concerned is under statutory obligation, without hearing the accused person, to enter it in the prescribed register. Failure of the concerned police officer to register a complaint so made or his resorting to delaying tactics, amounts to failure to discharge

statutory obligations, which attracts provisions of Section 22-A (6) (i), Cr.P.C. It may be observed that an aggrieved person is well within his rights to approach Justice of Peace under section 22-A(6) (i), Cr. P.C, with a prayer for registration of the case, and if the Justice of Peace comes to the conclusion that a cognizable offence is apparent from the data available on the record, he can pass an order for registration of the F.I.R.; as such, the Justice of Peace is saddled with the administrative duty to redress the grievances of the complainant aggrieved by refusal of police officer to register his report.

So far the contentions of learned counsel for the applicant are concerned, suffice it to say that under section 22-A(6) (i), Cr. P.C, the Justice of Peace is not authorized to assume the role of investigating agency or prosecution. Even minute examination of the case and fact findings upon the application and report of police is not included in the function of the justice of Peace. Merely moving an application for challenging the MLC cannot be a ground to disrupt the legal course of lodging of an F.I.R. regarding commission of a cognizable offence. Even otherwise, the authenticity or falsity of MLC can be seen in investigation.

It may also be observed that every citizen has got a right to get his complaint registered under section 154, Cr.P.C. with local police when complaint makes out a cognizable offence, a safeguard against false complaint is provided under section 182, P.P.C. whereby a person giving false information to an officer in-charge of a police station can be prosecuted for an offence punishable under sections, 182 or 211, P.P.C., if such information is found to be false.

For the foregoing facts and reasons, there appears no illegality or irregularity in the impugned order requiring any interference of this Court under its inherent powers. Hence, this Crl. Misc. Application is dismissed in *limine*, along with listed applications.