

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

Criminal Miscellaneous Application No. S-471 of 2024

*(Abdul Khalique v. SSP Complaint Cell Mirpurkhas)*

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**DATE            ORDER WITH SIGNATURE OF JUDGE**

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Date of hearing and Order 08.08.2024

Mr. Sajid Ali Gorar advocate for applicant a/w applicant.

Mr. Ali Hassan Chandio advocate for respondents No.4 & 5

Mr. Dhani Bakhsh Mari Assistant P.G Sindh a/w Inspector Saleem Siraj SHO PS  
Digri.

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**ORDER**

**Adnan-ul-Karim Memon, J.** The Applicant Abdul Khalique has assailed the legality of the order dated 30.7.2024 passed by the learned Additional Sessions Judge Mirpurkhas, whereby the following direction was issued:-

“After hearing both parties and carefully scanning the available record including the reports submitted by S.H.O. P.S. Digri and D.S.P. District Complaint Cell, Mirpurkhas, it transpires that the applicant had admittedly purchased buffaloes from proposed accused Irfan and others and at present per version of applicant only Rs. 6, 22,000/- is outstanding and he (applicant) is ready to pay the same. But per version of proposed accused Irfan, applicant has to pay Rs.40,00,000/- to them. Applicant has alleged that proposed accused Irfan with the help of police snatched his buffaloes of value of Rs.32,00,000/- so also lodged false FIR No. 80/2024 under section 147, 148, 149 , 504, 506(ii) PPC against them. On the contrary, proposed accused Irfan alleged that when he went to collect outstanding amount of Rs.40,00,000/- from applicant party on their call, they issued threats to him while pointing pistol at him.

Police reports have also confirmed that the main dispute between the parties is money dispute and one FIR No. 80/2024 is already lodged by the proposed accused Irfan against the applicant party and applicant has filed this application just to usurp the money of proposed accused; so also police has not caused any harassment to the applicant.

From hearing both parties and carefully scanning the available record including the reports submitted by S.H.O. P.S. Digri and D.S.P. District Complaint Cell, Mirpurkhas, it has come on record that admittedly there is money dispute between the parties and one FIR No. 80/2024 is already lodged by the proposed accused Irfan against the applicant party. Therefore in my humble opinion, applicant has not approached this forum with clean hands and apparently he wants to make counter blast by lodging FIR against the opposite party just to bring them on his terms and conditions. Case law relied upon by the learned advocate for applicant having distinguished facts and circumstances is of no help to the applicant.”

Therefore, in view of above discussion, the instant CrI. Misc. Application having no any merit consideration is hereby dismissed.

2. I have noticed that the Supreme Court in the recent judgment has dilated upon Section 22-A, Cr. P.C, and held that it is not the function of the Justice of Peace to punctiliously or assiduously scrutinize the case or to render any findings on merits but he has to ensure whether, from the facts narrated in the application, any cognizable case is made out or not; and if yes, then he can issue directions that the statement of the complainant be recorded under Section 154. Such powers of the Justice of Peace are limited to aid and assist in the administration of the criminal justice system. He has no right to assume the role of an investigating agency or a prosecutor but has been conferred with a role of vigilance to redress the grievance of those complainants who have been refused by the police officials to register their reports. If the Justice of Peace assumes and undertakes a full-fledged investigation and inquiry before the registration of FIR, then every person will have to first approach the Justice of Peace for scrutiny of his complaint and only after clearance, his FIR will be registered, which is beyond the comprehension, prudence, and intention of the legislature. Minute examination of a case and conducting a fact-finding exercise are not included in the functions of a Justice of Peace but he is saddled with a sense of duty to redress the grievance of the complainant who is aggrieved by the refusal of a Police Officer to register his report.

3. The offenses have been categorized by the Cr.P.C. into two classes i.e., cognizable and non-cognizable. Section 154 of the Cr.P.C. lays down a procedure for conveying information to an S.H.O. to the commission of a cognizable offense, while the provisions of Section 155 (1) of the Cr.P.C. articulates the procedure vis-à-vis a non-cognizable offense. At whatever time, an Officer in charge of a Police Station receives some information about the commission of an offense, he is expected first to find out whether the offense disclosed fell into the category of cognizable offenses or non-cognizable offenses. There is no provision in any law, including Section 154 or 155 of the Cr.P.C., which authorizes an Officer Incharge of a Police Station to hold any inquiry to assess the correctness or falsity of the information before complying with the command of the said provisions. He is obligated to reduce the same into writing, notwithstanding the fact whether such information is true or otherwise. The condition precedent for recording an FIR is that it should convey the information of an offense and that too a cognizable one.

4. The remedy of filing a direct complaint cannot measure or match up to the mechanism provided under section 154, Cr.P.C., in which the Officer Incharge of

a Police Station is duty-bound to record the statement and register the FIR if a cognizable offence is made out. If in every case it is presumed or assumed that instead of insisting or emphasizing the lodgment of an FIR, the party may file a direct complaint, then the purpose of recording an FIR, as envisaged under section 154, Cr.P.C., will become redundant and futile and it would be very easy for the police to refuse the registration of an FIR with the advice to file a direct complaint. However, in some exceptional circumstances, the alternate remedy in the shape of a direct complaint may be availed but not in every case. The statutory duty casts upon the officer of a police station to enter information regarding the cognizable offense first and then the investigation comes later to gather evidence and other relevant material to prosecute the identified culprits.

5. No doubt, an Investigating Officer plays a crucial role in the administration of the criminal justice system and the constituent of the investigation report and its worth keeps hold of plenteous value and repercussions on the outcome of any criminal case, but tainted investigations can become an acute obstacle in the administration of justice. In the case of *Sughra Bibi vs. State* [PLD 2018 SC 595], it was held that during the investigation, the Investigating Officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and as required by Rule 25.2(3) of the Police Rules, 1934.

6. An Investigating Officer has to find out the truth of the matter under investigation. His object shall be to discover the facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person. Whereas in the case of *Babubhai v. State of Gujrat and others* [(2010) 12 SCC 254], the Supreme Court of India held that investigation must be fair, transparent, and judicious as it is the minimum requirement of the rule of law. Investigative activities serve a multitude of purposes, therefore, it is also the duty of the Officer Incharge of Police Stations to ensure that the Investigating Officer follows the provisions of law conscientiously, without any breach, conducting an impartial and honest investigation with the sole aim of bringing the truth to light, which is the foundational pathway for the prosecution's case.

7. In case of declining the registration of FIR or recording the statement, the aggrieved person has a right to approach under Section 22- A, Cr.P.C. and file any such application, and the Justice of Peace is obligated to examine it and, after hearing the parties, pass an appropriate order.

8. When confronting the aforesaid legal position of the case, after arguing the matter at some length, both parties agreed to the disposal of this Crl. Misc.

Application in terms that the SSP Mirpurkhas (himself) shall hear the parties within a week; and, in case, he finds a cognizable offense made out, he may direct the SHO concerned to record the statement of the applicant in terms of section 154 Cr.PC., however, if he finds something fishy on the part of the applicant, he may direct for proceedings against the applicant in terms of section 182 PPC. However, the aforesaid exercise is subject to providing a meaningful hearing to the parties.

4. In terms above, instant Crl. Misc. Application stands disposed of.

**JUDGE**

*\*Ali Sher\**