

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CrI. Misc. Application No.S-299 of 2023

Applicant: Abdul Fatah Jhatiyal, through
Mr. Mansoor Hussain Maitlo,
Advocate

Respondent No.3: Muhammad Ibrahim Jhatiyal,
through Alam Sher Bozdar,
Advocate

State: Through Ms. Shabana Naheed,
Assistant Prosecutor General

Date of hearing: **20.10.2023**
Date of decision: **20.10.2023**

ORDER

Arbab Ali Hakro, J: Through this application, the applicant has assailed the order dated 06.05.2023, passed by learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Ghotki, in CrI. Misc. Appl. No.1071/2023, whereby allowing application u/s 22-A(6) (1)& 22-B Cr. P.C, filed by Respondent No.3, directed the SHO concerned to record the statement of the applicant and register the FIR against the proposed accused if a cognizance offence is made out.

2. Learned Counsel for the applicant has contended that no such incident, as alleged by respondent No.3, took place and the story narrated by Respondent No.3 in the memo of application u/s 22-A& 22-B Cr.P.Cis false and concocted one; that the Respondent No.3 had managed false and fabricate MLC paying illegal gratification; otherwise no injuries have been sustained by the respondent No.3; that the applicant has challenged the MLC of the respondent No.3 before the medical board and its report is awaited; that learned Justice of Peace without touching the merits of the case, passed the impugned order in a hasty manner without

applying judicious mind, which is not sustainable in the eyes of law and liable to be set aside.

3. On the other hand, learned Counsel for respondent No.3 supporting the impugned order has sought for dismissal of the instant application, contending that the applicant has committed a cognizable offence causing injury to respondent No.3 and such medical certificate has been issued by the MO, as such the learned Justice of Peace has rightly passed the impugned order and instant application is liable to be dismissed.

4. Learned APG has also supported the impugned order and placed a statement of concerned SHO/respondent No.2, submitting that the statement of respondent No.3 has already been recorded in compliance with the impugned order; as such, this application has become infructuous and liable to be dismissed.

5. I have heard Counsel for the parties and have gone through the material available on record and impugned order.

6. This is an injury case. A perusal of the application under Section 22-A & B, Cr.P.C prima facie, reveals that the applicant had caused injury to respondent No.3, and such medical certificate has been issued by the M.O which corroborates the allegations of respondent No.3. Therefore, while exercising powers vested in the Ex-officio Justice of Peace/Additional Sessions Judge-II, Ghotki, he directed the concerned SHO to record the statement of the respondent No.3 and register the FIR against the applicant if a cognizable offence is made out, vide impugned order dated 06.05.2023

7. As far as the contention of learned Counsel for the applicant that the applicant has challenged the medical certificate before the medical board is concerned, it may not be out of place to mention here that the applicant would have an alternate remedy to avail in case the medical board's report comes contrary. Further, during the proceedings, it has come on record that the impugned order has been

complied with by recording the statement of respondent No.3. Needless to say, there are sufficient safeguards in the law against false implication in criminal cases with ulterior motives. After all, following registration of the case, an investigation into the case is to be conducted by the local police, including the collection of evidence either proving or disproving the case by respondent No.3 against the applicant. After the collection of evidence, if the report is proven false and baseless, the police have ample powers to get the FIR cancelled and proceed against lodger of the FIR/respondent No.3 under the law for lodging a false and concocted report for the harassment of applicant.

8. In view of above, the learned Justice of Peace has passed a well-reasoned order and Counsel for the applicant has failed to point out any illegality or infirmity in the impugned order warranting interference by this Court. Resultantly, the impugned order dated 06.05.2023 is maintained, and the instant criminal miscellaneous application is dismissed.

JUDGE

Suleman Khan/PA