ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-641 of 2022

(Naseem Ahmed Vs. The State & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE

For hearing of main case.

01-04-2024.

Mr. J.K Jarwar, advocate for the applicant.
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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The applicant by making allegation of mischief and theft against the private respondents by making an application u/s 22 A/B Cr.P.C sought for direction against the police to record his FIR for such incident, it was dismissed by learned Additional Sessions Judge/Ex-Officio Justice of Peace, Kandiaro vide order dated 26-11-2022, which is impugned by the applicant before this Court by making Crl. Misc. Application under section 561-A Cr.P.C.

It is contended by learned counsel for the applicant that the cognizable offence has taken place; therefore learned Ex-Officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order, same being illegal is liable to be set aside by this Court, with direction to police to record the statement of the applicant for purpose of the FIR.

Learned Additional P.G for the State by supporting the impugned order has sought for dismissal of instant Crl. Misc. Application by contending that the applicant is intending to involve the private respondents in false case only to settle his dispute with them over landed property.

Heard arguments perused the record.

The DSP Complaint Cell Naushahro Feroze in his report has denied the occurrence of the incident by stating that only harsh words were

exchanged by the parties with each other. The civil dispute between the parties over landed property is going on. In these circumstances learned Ex-Officio Justice of Peace was right to have declined issuance of direction against the police to record statement of the applicant for the purpose of the FIR by way of impugned order, which is not found illegal to be interfered with by this Court.

In case of *Rai Ashraf and others vs. Muhammad Saleem Bhatti and others (PLD 2010 S.C 691)*, it has been held by Apex Court that;

> *"The learned High Court had erred in law to exercise discretion in favour of the respondent No.1 without realizing that the respondent No.1 had filed application before the Additional Sessions Judge/Ex-Officio Justice of the Peace to restrain the public functionaries not to take action against him in accordance with the LDA Act 1975, Rules and Regulations framed thereunder, therefore, respondent No.1 had filed petition with mala fide intention and this aspect was not considered by the learned High Court in its true perspective."*

In view of above, the instant Crl. Misc. Application fails and it is dismissed accordingly.

Judge

Nasim /P.A