

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.S-522 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections.
	2. For hearing of main case.
	3. For hearing of M.A.No.8926/2021.
	4. For hearing of M.A. No.2053/2024.

24.09.2024

Mr. Muhammad Arshad S. Pathan, Advocate for applicants.
Mr. Muhammad Shafique Khan, Advocate for respondent(s).
Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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Through Criminal Miscellaneous Application, applicants have challenged order dated 12.08.2021 wherein application under section 22-A6(i) Cr.P.C of respondent No.1 was allowed.

Counsel for applicants submits that private respondent wants to lodge FIR with false facts and medico-legal certificate obtained was challenged before the Medical Board which on account of non-appearance of injured was kept in abeyance and thus order is liable to be set-aside.

The above contentions have been opposed by learned counsel for private respondent on the ground that impugned order is speaking and well reason covers all aspects of the case which needs no interference of this Court as the applicants (being proposed accused) attacked upon respondent party and caused deadly injuries to them, as such, FIR should be register against them. He lastly prays for dismissal of instant Criminal Miscellaneous Application.

Pursuant to show-cause notice issued on 02.09.2024, Dr. Waqar Mehmood Memon, Director General Health Services Sindh Hyderabad has appeared and filed comprehensive report along-with unconditional apology the same is accepted result thereof show-cause notice issued to him vide order dated 02.09.2024 is hereby recalled. As per his statement, the injured had not appeared before the Board, therefore, his certificate was kept in abeyance and the same has lost its legal validity till the appearance of injured before the members of special medical board in view of Government Order No.SO-VI(H) 6-7-2000 Dated 23.08.2001 and No.CS/HYD(injured No.3361)/-81/88, dated 05.01.2022.

From perusal of material available in the file it reflects that there appears enmity in between the parties even the injured has not appeared for examination before the Board. The other fact to be considered is that FIR No.82 of 2021 pertains in between the present parties which suggests that they are disputing since long, therefore, both applicant and respondent should pursue said FIR, as such, another FIR could not be ordered to be registered to settle their personal vendetta owing to each other. Under such circumstances, impugned order dated 12.08.2021 cannot sustain in law, therefore, I dispose of this Criminal Miscellaneous Application by setting-aside the impugned order dated 12.08.2021. However the respondent No.1 may file direct complaint of the subject incident and the observations made in this order will not come in the way while deciding the direct complaint.

JUDGE