

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR**

CrI. Misc. Application No.S-566 of 2024

Mr. Safdar Ali Ujjan, Advocate files power on behalf of applicant.
Mr. Ghulam Ali Bhirajo, Advocate for respondent No.5.
Mr. Khalil Ahmed Maitlo, Deputy P.G for the State.

Date of hearing: **10.02.2025**

Date of decision: **10.02.2025**

ORDER

RIAZAT ALI SAHAR, J- Through this Cr. Misc. Application, the Applicant has assailed the order dated 20.09.2024, passed by learned Sessions Judge/ex-Officio Justice of Peace, Naushahro Feroze, in the application filed by the respondent No.5 under Section 22-A & 22-B CrPC for registration of FIR in respect of a cognizable offence alleged to have been committed by the proposed accused.

2. It is, *inter alia*, contended by learned counsel for the applicant that the applicant innocent and is being involved in a false case by the private respondent by managing a concocted story; that in fact, there is a dispute between the parties over the purchase of plot, which is of civil nature and the respondent No.5 without exhausting remedy before the Civil Court filed application for registration of FIR against the applicant in order to put pressure upon him to settle the dispute, however, in fact no such incident, as alleged by the respondent No.5, has ever taken place. He prayed for setting aside of the impugned order.

3. Learned D.P.G for the State did not support the impugned order, while learned counsel for the private respondent supported the same by contending that a cognizable offence has been committed by the applicant party.

4. Having carefully considered the arguments advanced by both parties and meticulously examined the record, it is evident that the dispute between the parties primarily pertains to the purchase of a plot. The contentions raised by Respondent No. 5 revolve around a transactional disagreement, for which an adequate remedy lies before the Civil Court. It is a well-established legal principle that criminal law cannot be invoked to settle civil disputes, and in such cases, the proper recourse is through a suit before the competent civil forum. Furthermore, the police report fails to substantiate the allegations made by Respondent No. 5 in his application. There is no credible material on record to suggest that any criminal incident took place as alleged. Rather, the dispute appears to stem from a contentious sale transaction involving the purchase of the plot by Respondent No. 5 from the applicant. In such circumstances, directing the registration of an FIR under the guise of criminal intimidation would be not only unwarranted but also an abuse of legal process. The principle of “*mala fides non praesumuntur*” (bad faith is not presumed) applies here, as the allegations do not meet the threshold required to initiate criminal proceedings. My view aligns with the **judgment rendered in *Imtiaz Ahmed Cheema v. SHO PS Dharki [2010 YLR 189]***, wherein it was held:

“The provisions of section 22-A, Cr.P.C. have been misused in a number of cases. The wisdom of legislature was not that any person who in discharging of duties takes an action against the accused would be subjected to harassment by invoking provision of section 22-A, Cr.P.C. The Courts in mechanical manner should not allow application under sections 22-A & B and should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. Unless such practice is discharged, it would have far reaching effect on the police officials who in discharge of duties take actions against them. The law has to be

interpreted in a manner that its protection extends to every one.”

5. In light of the foregoing, it would be unjust, inequitable, and contrary to established legal principles to order the registration of an FIR against the applicant in a matter that is clearly civil in nature. The complainant is at liberty to seek redressal of his grievance before the appropriate forum having jurisdiction, as the criminal law cannot be allowed to be used as an instrument of coercion in contractual disputes.

6. Accordingly, instant application is **allowed** and the impugned order is set aside.

J U D G E

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