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ORDER-SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
Constt. Petition No. D- 220 of 2016.

Date of hearing	Order with signature of Judge
25.10.2016.	

1. For orders on office objection.
2. For Katcha Peshi.

Mr. Athar Abbas Solangi, Advocate for petitioner.  
Mr. Safdar Ali Bhutto, Advocate for proposed accused Ahsan Ali Siyal.  
Mr. Habibullah Ghouri, Advocate for proposed accused Tariq Anwar alias Zafar Anwar Siyal.  
Mr. Sardar Ali Rizvi, A.P.G.  
Mr. Munawar Ali Abbasi, Asstt. A.G. alongwith SIP Munawar Ali Soomro, SHO P.S Allahabad and Inspector Bashir Ahmed Abro DSP (Legal), for SSP Larkana.

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**Muhammad Iqbal Kalhoro, J:** Petitioner is aggrieved by the Order dated 26.02.2016, whereby his application filed under Section 22-A (6) (i) Cr.P.C. for registration of the FIR of an incident, which allegedly took place on 23.2.2016 at about 07.00 p.m., has been dismissed by the learned Additional Sessions Judge-VII/Ex-Officio Justice of Peace, Larkana.

2. The case of the petitioner is that under the provisions of Section 154 Cr.P.C., it is incumbent upon the Duty Officer to record his statement and in case the same discloses a cognizable offence, the FIR has to be registered. His counsel, namely, Mr. Athar Abbas Solangi has primarily emphasized on this point in his arguments, in addition to relying upon the case laws reported in PLD 2005 S.C 297, PLD 2007 S.C 539, 2001 SCMR 1556, 2012 YLR 2363, PLD 1997 Karachi 119 and 2007 P.Cr.L.J. 1352, to support his contentions.

3. On the other hand, Mr. Safdar Ali Bhutto learned counsel appearing for the proposed accused namely, Ahsan Ali Siyal has mainly argued that an FIR bearing No.23/2016 regarding same incident has already been lodged at P.S Darri and in presence of which, registration of second FIR cannot be ordered. He has empathized that petitioner should join the investigation in the above FIR and get his version recorded, which can further be reinvestigated.

4. Mr. Habibullah Ghouri Advocate, who is appearing for proposed accused, namely, Tariq Anwar alias Zafar Anwar Siyal has taken a particular plea that the petitioner has a political motive to implicate the proposed accused Suhail Anwar Siyal, former Home Minister Sindh, who otherwise on the day of incident was not even present in the country.

5. Learned A.P.G Mr. Sardar Ali Rizvi has also opposed this petition. His contention is that the petitioner should join the investigation in FIR bearing No.23/2016 and should get his own version recorded therein before the Investigating Officer. According to him, there is no need to register the second FIR, as in the investigation of the first FIR, the version of the petitioner can be evaluated and if some evidence in support thereof is found the challan in such terms can be submitted. 109

6. We have considered the submissions of the parties and perused the material available on record. The application filed by the petitioner for registration of the FIR indicates that the alleged incident took place on 23.2.2016 at about 07.00 a.m. in front of Otaq of the petitioner when proposed accused alongwith unknown accused allegedly came over there and manhandled the petitioner, his sons and others and also committed trespass in his house. The main proposed accused Ahsan Ali Siyal, was allegedly posted as Accountant, T.M.A Bakrani, where son of the petitioner, namely, Kashif was also posted as Assistant and on account of some corruption in the Accounts branch, he had resigned therefrom and thereafter he sent applications to NAB and Anti-corruption authorities against Ahsan Ali Siyal, due to which, he allegedly used to threaten him for dire consequence. Record reflects that in the application under Section 22-A (6) (i) Cr.P.C. the SHO, P.S Allah-abad had submitted his comments on 25.2.2016, confirming the incident but stating that the petitioner had not disclosed names of any accused, therefore, such information was kept in daily-diary No.19, dated 23.2.2016 at 2130 hours. Contrary to it, at Police Station Darri, SIP Miran Khan Durrani has lodged the FIR bearing Crime No.23 of 2016 of the said incident on 25.2.2016 at 2100 hours reporting the incident in the manner so as to say that the petitioner had disclosed to them about firing made by five unknown persons and when he (SIP Miran Khan Durrani) asked him to get an FIR registered, he refused. During course of arguments we have been informed that said FIR has been disposed of by the police under "A" class. It is, thus, obvious that on the one hand the petitioner is trying to get his version of the incident recorded under Section 154 Cr.P.C, but in vain; and on the other hand the police has shown an un-called for efficiency to register FIR of the incident, although, according to the police themselves, the petitioner had refused to come to the Police Station for registration of the FIR and thereafter very conveniently has disposed it of under "A" class (accused un-traced). It also appears from the record that the comments in the application for registration of the FIR were submitted by the SHO concerned on 25.2.2016, meaning thereby that he was

aware of the application filed by the petitioner for registration of the FIR, nonetheless at about 2100 hours of the same day the FIR (Crime No. 23/2016) of the incident by the police of P.S Darri was registered against unknown accused. This FIR coupled with the fact that the same has been disposed of under "A" class by the police is indicative of the fact that police is not recording the statement of the petitioner according to his version and thereby refusing to act in accordance with law. It goes without saying that in law registration of second FIR of the incident is not barred and in many cases the Hon'ble Supreme Court has observed that in presence of first FIR of the incident, the second FIR of the incident could be lodged. In this regard we have taken guidance from the dictum laid down in the case laws relied upon by the learned counsel for petitioner.

7. As for the contention of Mr. Ghouri that on political basis the proposed accused, namely, Tarique Anwar Siyal and Suhail Anwar Siyal are being implicated by the petitioner, suffice it to say that veracity of version of the petitioner cannot be summarily decided here. It is only for the Investigating Officer to verify the same and any statement of the accused recorded during the course of the investigation. In law, a person, who wants to get his statement recorded relating to a cognizable offence cannot be precluded from doing so.

8. We, in the light of above discussion set aside the impugned Order 26.02.2016 and direct SHO, P.S Allah-abad, Larkana to record statement of the petitioner and in case a cognizable offence is made out, he shall record the same in a book kept under Section 154 Cr.P.C. Needless to mention that the proposed accused shall be arrested only after the tangible evidence is found against them. We would however, expect keeping in view above conduct of the police that respondent No.2/ SSP Larkana shall assign investigation of the FIR, if lodged, to an honest police officer.

9. The petition stands disposed of.