

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Misc. Application No. 738 of 2022

<i>Date</i>	<i>Order with Signature of Judge</i>
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1. For orders on office objection.
2. For hearing of Main Case.
3. For hearing of M.A No.14620/2022.

24.02.2025

M/s. Shafqat Ali Shah Masoomi & Shahbaz Ali Shah Masoomi,
Advocates along with Applicants.
Ms. Rubin Qadir, Deputy Prosecutor General, Sindh.
Mr. Abdul Wali, Advocate along with Respondent No.2.

ORDER

ALI HAIDER 'ADA'-J:- Through this Criminal Misc. Application, the applicants have challenged the order dated 24.11.2022 passed by learned Ex-Officio Justice of Peace/Indl Addl. Sessions Judge, Karachi (East) in Criminal Misc. Application No.4130 of 2022, which was filed by respondent No.2 on the ground that on 22.10.2022 at about 02:00 P.M, the respondent No.2 along with her family members were available in their house, in the meantime, applicants party used abusive language with them and recorded their video while throwing some glass bottles and started firing upon respondent No.2 family, further by throwing bricks and stones, the act was committed by the hands of the applicants.

2. Learned counsel for the applicants submits that both parties are related to each other, and in fact, an FIR bearing No. 807 of 2022 under Sections 324, 109, and 34 PPC was filed by applicant No. 1 against the family of respondent No. 2, and a challan was subsequently submitted. The learned counsel further submits that in the instant FIR, a number of bullets were sustained by the applicants' party, who were seriously injured. He also submits that the father of respondent No. 2, an Advocate, had illegally supported the respondents in a property dispute, which led the applicants to file an application with the Sindh Bar Council. Learned counsel next submits that during the proceedings, the stance of police is

that no incident had taken place, as alleged by the respondent No.2 in her application under Section 22-(A)&(B) Cr.P.C., so in order to counter blast, respondent No.2 intends to lodge an FIR against the applicants' party to save their skin.

3. On the other hand, learned counsel for respondent No. 2 submits that the order is conditional in nature, as the learned Justice of Peace observed that if a cognizable offence is made out, it should be incorporated into the FIR. Learned counsel for respondent No. 2 has placed on record a report under Section 155 of the Cr.P.C. filed by the concerned SHO, in which the SHO states that he recorded a statement and found no cognizable offence made out. However, the Magistrate having jurisdiction did not accept this report

4. Learned Deputy P.G, Sindh supports the submissions advanced by learned counsel for the respondent No.2 as well as order dated 24.11.2022.

5. I have heard learned counsel for the parties and perused the material available on record.

6. It is the prime duty of the Justice of the Peace to exercise due care while entertaining an application under Section 22(a) & (b) Cr.P.C. Such applications should not be entertained lightly, as they should not be decided in a mechanical manner for issuing directions for the lodging of the FIR. In the instant case, the application under Section 22(a) & (b) Cr.P.C. was filed on 11.11.2022, while the alleged incident occurred on 22.10.2022.

7. The application be considered with prudent mind, in instant matter, the police concerned is of the opinion that no cognizable offence is made out. Further the order under Section 155 Cr.P.C is available at page-91 which was filed with a statement of respondent No.2, which reveals that no chance has been given to the applicants party for hearing. It is, however, observed that the respondent No.2 may avail alternate remedy instead to press the application, even her contents were not supported by the concerned SHO regarding the occurrence.

Reliance can be placed upon the cases of Mst. SAFIA BIBI Versus EX-OFFICIO JUSTICE OF PEACE/ASJ, NAROWAL and 3 others (2024 MLD 1780) and MUNAWAR ALAM KHAN Versus QURBAN ALI MALLANO and others (2024 SCMR 985).

8. Keeping in view all the aforementioned facts, this Criminal Misc. Application is hereby allowed and the impugned order dated 24.11.2022 passed by learned Ex-Officio Justice of Peace/Ind Addl. Session Judge, Karachi (East) is hereby set-aside. The petition under Section 22-(A) & 22-(B) Cr.P.C filed by the respondent No.2 for registration of FIR against the applicants, stands dismissed.

JUDGE

Zulfiqar/P.A