

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT, LARKANA.
Cr. Misc. Appln. No.S- 130 of 2013.

Dated _____ order with signature of hon'ble Judge.
For Katcha Peshi.

19.07.2013.

Mr. Mazhar Ali Mangan, advocate for the applicant.
Mr. Naimatullah Bhurgri, State Counsel.

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Through instant application, the applicant has assailed order dated 06.06.2013 whereby application U/S 22-A and 22-B Cr.P.C filed by the applicant was declined.

2. Relevant facts are that applicant approached Ex-officio Justice of Peace/District and Sessions Judge, Larkana by filing application U/S 22-A and 22-B Cr.P.C contending therein that proposed accused have committed cognizable offence but concerned Station House Officer is reluctant to record his statement. Such application was declined.

3. Learned counsel for the applicant, *inter-alia*, contends that, every Station House Officer is bound to record information of every informant and if contentions of such statement constitute a cognizable offence, he has to incorporate it in the book U/S 154 Cr.P.C hence impugned order is against the settled principle of law and reference given by the learned Ex-Officio Justice of Peace is not applicable in the instant case.

4. Conversely learned State Counsel by refuting the submission of applicant's counsel contends that Ex-Officio Justice of Peace has passed order in accordance with the law and there is no illegality in it.

5. Heard learned counsel for the parties and perused the record.

6. The perusal of record reveals that applicant approached to the Justice of Peace by moving application U/S 22-A and 22-B Cr.P.C whereby he contended that proposed accused persons who are police officials, they stopped him and his friends and caused straight fires upon applicant party and thereafter PC Shahid Ali Magsi



robbed cash Rs.50,000/= from pocket of Muharam Ali and mobile X-2 company, PC Fareed snatched Rs.5000/= from applicant and one mobile X-2, unidentified accused robbed one mobile X-1 and Rs.1500 from P.W Altaf Hussain and thereafter all the accused police officials went away while extending threats of murder if they would make complaint.

7. It is settled principle of law that Station House Officer is bound to record statement of every informant and if from the averments of statement a cognizable offence is made out he has to record statement and lodge the FIR and before lodgment of FIR pre-inquiry is not permissible under the law. However, learned Ex-Officio Justice of Peace while deciding application U/S 22-A and 22-B Cr.P.C can examine the contention of application U/S 22-A and 22-B Cr.P.C but simultaneously reliance on police report is unwarranted under the law thus apparently impugned order is not maintainable, consequently the same is hereby set aside and Respondent No.1 is directed to record the statement of applicant and if contention of statement reflects the ingredients of a cognizable offence he shall incorporate it in 154 Cr.P.C book by lodging FIR.

The application stands disposed of.

JUDGE

shabir