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ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT AT LARKANA
Cr. Misc. Appln. No. S-182 of 2017

Date	Order with signature of Judge
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1. For order on office objection.
2. For hearing of main case.

31-08-2018

Mr. Qurban Ali N. Agro, advocate for the applicant.

Mr. Khadim Hussain Khooharo, Additional Prosecutor General a/w S.I.P Nazeer Ahmed Mangi, S.H.O P.S. A-Section, Mehar and S.I.P Ghulam Sarwar, S.H.O P.S. Kakar.

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Zafar Ahmed Rajput, J.- Through this Cr. Misc. Application, the applicant has impugned the order dated 11.04.2016, whereby the learned II-Additional Sessions Judge/Ex-Officio Justice of Peace, Mehar dismissed Cr. Misc. Appln. No.402/2016 filed by the applicant U/S 22-A & B Cr.P.C seeking directions for the registration of F.I.R against the proposed accused persons.

2. Learned counsel for the applicant states that on 25.03.2016, the applicant along with his father Badaruddin after offering Juma Prayer came out of the Masjid of their Muhalla, when accused S.I.P Mohammad Ibraheem and others arrested his father in Crime No. 62/2016 P.P.C, thereafter the applicant along with his relative Abid Ali went to police station A-Section Mahar at about 04-00 p.m. to meet with his father, where he saw his father sitting in the office of S.H.O, he tried to meet his father, on which S.I.P Muhammad Ibraheem got annoyed and caused lathi blows to him on his face, which resulted dislocation of his upper side tooth and damaging of another tooth. He further states that H.C Qurban Ali, HC Zulifqar Ali and WHC Ayaz Sargani also beaten the applicant with kicks and fist blows and then they confined the applicant in lockup and registered the case bearing F.I.R No.65/2016, U/S 225,353,506/2 and 504



P.P.C. Learned counsel also states that applicant after obtaining bail went to duty officer of P.S. A-Section Mehar and requested him for the registration of his F.I.R but he refused to do so and; thereafter, he filed Cr. Misc. Appln. No.406/2016 U/S 22-A & B Cr.P.C before the Court of Sessions Judge/Ex-Officio Justice of Peace, Dadu, which was heard and dismissed by the learned II-Additional Sessions Judge/Ex-Officio Justice of Peace, Mehar. Learned counsel further states that in the aforementioned Misc. application, the applicant also annexed a proposed F.I.R, contents whereof show that the applicant had made out a prima facie case for registration of F.I.R but the learned Ex-Officio Justice of Peace, dismissed the application by observing that the intention behind the application appeared to be tainted with malice. He added that while entertaining an application in terms of Section 22-A & B Cr.P.C recording of any such observation is not under the domain of an Ex-Officio Justice of Peace, as his function does not include touching of merits; therefore, he is not supposed to enter into any deeper controversy not to embark upon any inquiry for the determination of the veracity of the representation placed before him.

3. On the other hand, learned Additional Prosecutor General states that while passing impugned order, the applicant has been left at liberty to file direct complaint, if he desires, that is an equally efficacious remedy. He further maintains that in fact the applicant intends to lodge an F.I.R as counter blast to the F.I.R already lodged against him bearing No.65/2016.

4. Heard learned counsel for the applicant and learned Additional Prosecutor General and perused the material available on record.

5. There can be no cavil to the proposition that once the allegation with respect to the commission of a cognizable offence is communicated to police, the police is duty bound to register a case; and in case of refusal or resorting to delaying tactics; the aggrieved person is well within his rights to approach the Justice of Peace under section 22-A, Cr.P.C, with a prayer for registration of the

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case, and if the Justice of Peace comes to the conclusion that a cognizable offence is apparent from the data available on the record, he can pass an order for registration of the F.I.R. As such, the Justice of Peace is saddled with the administrative duty to redress the grievances of the complainants aggrieved by refusal of police officer to register their reports. However, he is not authorized to assume the role of investigating agency or prosecution. Even minute examination of the case and fact finding is not included in the function of the Justice of Peace.

6. So far the instant case is concerned, apparently, the findings of the learned Justice of Peace while refusing to redress the grievances of the applicant, are erroneous for the reason that the information conveyed by the applicant prima facie discloses the commission of a cognizable offence. As a consequence, there was no option for the learned Justice of Peace, but to pass a direction to police authority concerned for registration of the F.I.R.

7. For what has been discussed above, I am of the considered view that the learned Justice of Peace has committed serious error while passing impugned order, which is hereby set-aside allowing instant Criminal Misc. Application as prayed. Consequently, the S.H.O P.S. A-Section Mehar is directed to record the statement of the applicant under Section 154 Cr.P.C in his verbatim and thereafter if any cognizable offence is made out, he shall proceed further in accordance with law.

Instant Criminal Misc. Application stands disposed of.


Judge