

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Misc. Application No.S-20 of 2017

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For Katcha Peshi.

Applicant : Ahsan Ali Dahar, through Mr. Shahbaz Ali M. Brohi, Advocate.

Respondents : SSP, Shikarpur & others.

Mr. Khadim Hussain Khooharo, Addl. Prosecutor General.

Mr. Ali Raza Pathan, advocate for proposed accused.

Date of hearing : 18.08.2017.

Date of Order : 18.08.2017.

ORDER.

Through this criminal miscellaneous application, the applicant has impugned the order dated 28.1.2017 passed by Sessions Judge, Shikarpur/Ex-Officio Justice of Peace, whereby the applicant's application under Section 22-A(6) & 22-B, Cr.P.C has been dismissed.

2. Learned Counsel for the applicant submits that cognizable offence is made out and the learned Justice of Peace ought to have issued directions to the concerned police authorities for recording of his statement and if such offence was made out, register the FIR. In support, he has relied upon the case of *Mst. Haseena v. S.H.O. P.S Nasim Nagar* (SBLR 2015 Sindh 87).

3. On the other hand, learned Counsel for proposed accused submits that the applicant was in illegal possession/occupation of railway quarter and was issued notice to vacate the same. The present proceeding is a counter-blast, as no such incident as alleged took place. He further submits that the applicant has thereafter vacated the

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premises and articles, if any, are lying with the Railway authorities under a proper mashirnama.

3. Similarly, learned Addl. P.G has supported the impugned order and submits that no case for registration of an FIR has been made out as the proposed accused are public servants and were performing their duties, therefore, instant application be dismissed.

4. I have heard all the learned Counsel as well as learned Addl. P.G and have perused the record.

5. Perusal of the record reflects that the applicant appears to have encroached official railway quarter, whereas the proposed accused did make an effort to take over the possession of the official railway quarter and if the applicant was aggrieved, then the proper course and remedy was to approach the Civil Court for possession and declaration. However, the applicant made an attempt to implicate the proposed accused who are otherwise public servants and officials of the Railway Department and made an effort to restrain them from performing their official duties.

6. In view of such position, I do not see any merit in this criminal miscellaneous application, which is accordingly dismissed. However, as directed by the learned Justice of Peace, the applicant may seek the remedy by filing a direct complaint in accordance with law, if so advised.


JUDGE
18/8/2017