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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Misc. Appln. No.S- 73 of 2024

Date of hearing

Order with signature of Judge.

1. For orders on office objection.
2. For hearing of main case.
3. For hearing of M.A. No.922/2024.

15.04.2024.

Mr. Saeed Ahmed B. Bijarani, Advocate for the applicants. -
Mr. Aitbar Ali Bullo, DPG.
Mr. Irshad Ali R. Chandio, advocate for respondent No.3.

ORDER

Statement filed on behalf of respondent No.1/SSP, Kashmore at Kandhkot is taken on record. Learned Counsel for the applicants under the cover of his statement of today's date files set of documents, which are also taken on record.

2. Through instant application, the applicants have assailed the order dated 29.02.2024 passed by learned Sessions Judge/Ex-Officio Justice of Peace, Kashmore at Kandhkot vide Cr. Misc. Application No.230/2024 re- Muhammad Haneef v. SHO PS B-Section, Kandhkot & another, whereby an application filed by respondent No.3 Muhammad Haneef Bijarani under Section 22-A(6)(i), Cr.P.C was allowed and directions were issued to the SHO PS concerned to record statement of the victim in terms of Section 154, Cr.P.C.

3. Learned Counsel submitted that the respondent No.3 had arrayed the applicants though they were not available at the spot and no role has been assigned to them; however, due to political rivalry, as they had contested the elections against each other, their names have been disclosed. To support his case, he under the cover of his statement of today's date placed on record copies of certain documents, which are taken on record. In support of his contentions, he relied upon the cases reported as *Bushra Ghias v. Justice of Peace/Additional District and Sessions Judge* (2019 YLR 1299), *Shafique Ahmad v. Additional Sessions Judge/Ex-Officio Justice of Peace, Jahanian District Khanewal and 4 others* (PLJ 2018 Lahore 210), *Muntazir Mehdi v. The Statoin House Officer Police Station T.M. Khan City and 3 others* (2022 YLR 514), *Haji Ashraf and 2 others v. Khan Muhammad and 3 others* (2020 YLR 44) and *Safdar Hayat v. Ex-Officio Justice of Peace and 3 otehrs* (2022 PCr.LJ 461). Hence prayed for setting aside the impugned order.

4. Learned DPG opposed the application and supported the impugned order.

5. Learned Counsel for the respondent No.3 submits that the respondent No.3 had appeared before the Ex-Officio Justice of Peace in injured condition and this fact has been mentioned by the Ex-Officio Justice of Peace under impugned order, even then his case was not registered, which is high handedness on the part of police, as the applicants/proposed accused are highly influential persons of the area. He, therefore, submits that by dismissing instant application the impugned order may be maintained and directions may be issued to the SHO concerned to record the statement of the respondent No.3 as provided by Section 154, Cr.P.C.

6. Heard. Record perused.

7. Admittedly the respondent No.3, who was injured of the crime, appeared before the Justice of Peace in an injured condition and the police report submitted by the concerned supported the case of respondent, therefore, there was no option for the SHO PS concerned but to record his statement u/s 154, Cr.P.C. So far contention of learned Counsel for the applicants/proposed accused that they were not available at the place of incident at the relevant time is concerned, same is yet to be scrutinized by the I.O. after collecting pro and contra evidence/material during investigation. Under the scheme of Code of Criminal Procedure, 1898, the scope of Section 154, Cr.P.C is open to the extent that in case any informant may appear and records his information with regard to cognizable offence the SHO or the incharge of police station is under obligation to record the same without causing any delay. Before parting with the order it will be appropriate to reproduce the concluding paragraphs of the impugned order, which read as under:-

"Today, the petitioner is present in the Court in injured condition. Reports of SHO and DSP complaint cell also indicate that the applicant, after the commission of offence, appeared at PS in injured condition and he was handed over letter for examination and treatment. The applicant has produced photo state-copy of medical certificate and annexed with the memo of application, which has not been even challenged before any forum and that too fully supports the version of the petitioner regarding receiving injuries, such plea prima facie, shown that the grievance of the petitioner is genuine-one, therefore, the matter in question requires complete investigation by the Police.

It is settled law that Section 154 CrPC left no discretion with the Police officer Incharge of the Police Station to avoid lodging of FIR, if by nature of facts stated before him, it transpired that a cognizable offence had been committed. Every informant had a legal right to get FIR registered in the case of cognizable offence, if it had been committed.

Reliance in this regard is respectfully placed on case law reported in 2015 P.Cr.L.J 790 (Sindh)."

8. Accordingly and in view of above, instant application merits no consideration, which is hereby dismissed. The SHO PS B-Section, Kandhkot is directed to record the statement of respondent No.3 under the book being maintained by them u/s 154, Cr.P.C, by making compliance of Section 157, Cr.P.C; however, during investigation the applicant shall not be arrested unless any material or tangible evidence is collected.

JUDGE