

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Misc. Appln No.723 of 2023

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

08.08.2025

Mr. Munawar Ali Advocate for applicant
Ch. Sajjad Ali, Advocate for respondent
Mr. Fayyaz Hussain, APG

The applicant, Abid Bashir, is aggrieved by the order passed by the learned Ex-Officio Justice of Peace. Counsel for applicant contends that he was compelled to file an application under section 22-A and B Cr.P.C., when on 12.07.2023, evening time, the proposed accused persons/respondents allegedly unlawfully broke opened the lock and forcibly entered the residence of the applicant and threatened to cause him and his family harm unless the applicant withdrew the application filed by him on 11.07.2023 with the Sub-registrar challenging the proposed accused/respondents attempt to sale/transfer of property which the applicant alleged he had powers of attorney in his favour. Counsel for the respondent opposes the allegations levelled by the applicant. He contends that respondent No.4 has filed a civil suit concerning the subject property, which is currently pending in the civil court. Both Counsel concede that the parties have a history of filing FIRs against each other, except that in rebuttal, counsel for applicant submits that the alleged incident of break and entry and threat, which is the subject matter of this lis, occurred before the filing of these subsequently registered FIRs. Learned APG submits that on the factual plain, the conduct of the applicant does not inspire confidence, as when the alleged incident took place, he did not act promptly to approach the concerned PS for lodging his FIR, in person. Instead, the applicant couriered the complaint to the said law enforcement, as evidenced by the TCS receipt available on file.

Heard learned Counsel. It appears from perusal of the record available on file that the dispute between the proposed accused/private respondents is of a civil nature, and even otherwise, no corroborative evidence is available on record to confirm contentions of the applicant/applicant's counsel regarding the commission of a cognizable offence. For instance, the allegation of breaking open the lock and forcing entry is not documented. The averment that the proposed accused/respondents also threatened the tenants in the same building, as well as the restaurant owner, as they exited the building, is not supported by any further information. In today's tech-triggered society, such information could have been captured via a smartphone in the form of an image, video or audio by any of the persons present at the time. Yet no information is

provided. Further, neither the tenant nor the restaurant owners have come forward, nor has the applicant impleaded them as witnesses-respondents in the application filed before the Ex-Officio Justice of Peace.

This Criminal Misc. Application was filed on 26.09.2023 in relation to an incident which allegedly took place on 11.07.2023. More than two years have passed since the alleged incident. With no evidence available in the file, it appears that the recording of a statement of an alleged break-in, which allegedly took place two years ago, in the circumstances, will serve no real purpose. Finally, as both Counsels concede, the question of the alleged powers of attorney (which apparently triggered the proposed accused/respondents' criminal threats to the applicant) is also currently the subject matter of an on-going civil dispute.

For the above reasons, this Criminal Misc. Application is dismissed.

J U D G E

Ashraff