

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Misc. Application No.S-197 of 2025

DATE **ORDER WITH SIGNATURE OF HON'BLE JUDGE**

1. For orders on office objection "A"
2. For hearing of main case.

08-09-2025

Mr. Abdul Rauf Memon, Advocate for the applicant.
Mr. Sardar Ali Solangi, Deputy Prosecutor General.

NISAR AHMED BHANBHRO, J- Through this Cr. Misc. Application the applicant has assailed the order dated 17-05-2025 passed by the court of learned Additional Sessions Judge/Ex-Officio Justice of Peace, Thul, whereby the Cr. Misc. Application No.262/2025 filed for issuance of direction to the SHO police station A-section Thul, to record the statement of applicant and incorporate the same in 154 Cr.P.C register was declined.

2. Mr. Memon contends that the learned trial court failed to appreciate the facts of the case and per medical evidence an offence cognizable in nature was made out. He further submits that enmity cuts the both sides, he submits that SHO in its report has conducted pretrial inquiry before the registration of FIR, which is not warranted under the law. He submits that prima facie commission of cognizable offence from the narration of the facts is made out, therefore, the order passed by the learned Ex-Officio Justice of Peace, declining the request of applicant for registration of FIR was untenable, thus liable to be set aside.

3. Proposed accused Muhammad Rahim who is respondent No.5 in the present case and Muhammad Alam the respondent No.11, proposed accused No.7 in the proposed memo of application submits that there is an enmity between the parties and Muhammad Rahim has lodged an FIR u/s 396, 397, 384, 386, 35 PPC and 7 ATA, at police station A-section Thul, wherein the brothers of present applicant are the accused. He further submits that the applicant party committed robbery and thereafter

murdered their brother Moazam Ali. He submits that several applications have been filed by the applicant side to restrain the proposed accused from perusing the matter of the murder of their brother. They prayed to dismiss the application.

4. Learned Deputy Prosecutor General supported the impugned order and contended that the police report evidenced that no such incident as alleged in the application taken place, therefore, learned Justice of Peace rightly declined the request of applicant.

5. Heard arguments. Perused material available on record.

6. No doubt the provisions of section 154 Cr.P.C are mandatory in nature and the concerned police officer cannot refuse to record the FIR, once he comes to conclusion that the offence cognizable in nature was made out from narration of facts but in the instant case the applicant approached the police station on 05-04-2025, wherein he only obtained the letter for medical treatment without disclosing facts of alleged incident. After obtaining medical letter he straight away filed an application with SSP Jacobabad who forwarded the same to SHO concerned for inquiry. Thereafter the applicant filed a petition u/s 22-A Cr.P.C with learned Ex-Officio Justice of Peace who sent the same for inquiry to the complaint cell and the SHO concerned. The SHO in its report disclosed that no such incident as alleged in the memo of application has taken place. The brothers of the applicant were facing trial in a case of dacoity with murder, wherein the proposed accused Muhammad Rahim is complainant. Report also evidenced that FIRs No.100/2024, 145/2024, 103/2024 and 10/2025 were lodged against the applicant side, therefore, the possibility that the applicant has cooked up story to avenge proposed accused on account of earlier FIRs lodged against him cannot be ruled out for a particular reason that when the applicant for the first time approached the police station he did not record his statement disclosing facts of the offence as alleged in the present memo. The facts incorporated in initial claim for all means and purposes was a report u/s 154 and 155 Cr.P.C. Once the report was

recorded by the police then to seek another report for the same offence was not warranted in any manner.

7. Law has now been settled that 2nd report cannot be recorded which has been enunciated in the case of Mst. Sughran Bibi V. The State (PLD 2018 SC 595), wherein it was held that 2nd FIR cannot be lodged. Since the applicant has recorded his statement before the police wherein he did not disclose commission of cognizable offence, therefore, no case is made out for the indulgence of this court to direct the police to record his statement. Accordingly no illegality, perversity is found in the impugned order. The application merits no consideration, same is hereby dismissed with no order as to costs.

JUDGE