

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Misc. Application No. S-01 of 2024
(Qalandar Bux Mirani Vs. The State)

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

ORDER.
10-03-2025.

Mr. Mushtaque Ahmed Shahani advocate for the applicant.
Mr. Ali Akram Shar, advocate for proposed accused.
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.
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Ali Haider 'Ada',J:- Through this application, the applicant assailed the order dated 21-12-2023 passed by learned IIIrd Additional Sessions Judge/Justice of Peace Sukkur in Crl. Misc. Application No. 4293/2023 filed by the applicant whereby seeking direction for SHO PS Abad to register his FIR against the proposed accused, but the same was turned down, hence preferred the instant application with same prayer.

2. Learned counsel for the applicant contends that the litigation over the landed property is pending at Revenue hierarchy between the applicant and proposed accused in this regard he under the cover of statement files Photostat copies of revenue appeal etc; that the applicant has also filed such application on 28-11-2023 before SSP Sukkur that the proposed accused are threatening to dispossess the applicant from the land; As per contents of application u/s 22 A & B Cr.P.C the applicant has stated that the incident took place on 01-12-2023 at about 03-00 pm when he along with his witnesses was available at his land, where proposed accused armed with deadly weapons came and caused him beating and threatened to hand over the possession of the land to them, otherwise they would killed him and his family members; that cognizable offence is made and SHO concerned is bound to record the statement of the applicant and register his FIR against the proposed accused, but SHO concerned

has refused to do so, hence he moved such application before the Ex-Officio Justice of Peace for the same purpose, where his application was also turned down. He placed his reliance on cases of Muhammad Razman alias Jani Vs. Muhammad Aslam and others (2007 P.Cr.L.J 1784) and Rafique Bibi Vs. Muhammad Sharif and others (2006 SCMR) 512.

5. On the other hand learned counsel for the proposed accused denied the allegation leveled by the applicant against the proposed accused and submits that civil dispute between the parties before the revenue hierarchy was pending and the proposed accused have succeeded to get order dated 03-08-2024 passed by learned Assistant Commissioner New Sukkur in their favour and the applicant has challenged the same before the competent forum and due to such grudge to convert the civil dispute into criminal litigation, he is trying to register a false case against them in order to pressurize them. In this regard, he under the cover of statement files Photostat copy of order dated 03-08-2024 and entry No. 510 in Form VII-B dated 06-09-2023.

3. Learned Additional PG supported the impugned order and submits that the applicant has not shown the names of witnesses in whose presence the same was occurred. In support of his contention, he placed his reliance on case reported in PLD 2010 SC 691.

4. Heard arguments and perused the material available on record.

5. Record reflects that prior to filing application before the Ex-Officio Justice of Peace, the applicant filed another application before SSP Sukkur on 28-11-2023 and such application was filed after the order of 03-08-2023 on which the applicant became unsuccessful to get order from the revenue forum. The application before the Justice of Peace filed in the month of 12-2023 on the point that incident took, the perusal of application u/s 22-A,B Cr.P.C shows that name of the witnesses were not shown, he has failed to show any medical evidence.

Perusal of report submitted by SHO PS Abad available at page No. 31 shows that the allegations of the applicant are totally false and fabricated as the same has not been reported to undersigned from corner nor the applicant approached to him. It is duty of the Ex-Justice of Peace that he must apply his prudent mind and adjudge the entire evidence and circumstance of complainant with care and caution. Reliance is placed on the case of **Mir Zaffar Azam Vs. Station House Officer, P.S "A" Section Sukkur and another (2017 P.Crl.L.J Note 179)**.

6. In case of **Munwar Alam Khan Vs Qurban Ali Malano and others** reported as (2024 SCMR 985) the Hon'ble Apex Court observed as under:-

----Ss. 22-A & 22-B---*Misuse of provision of Sections 22-A & 22-B, Cr.P.C,---It is the prime duty of the Court that such misuse be taken care of and an application filed under 22-A & 22-B Cr.P.C, should not be lightly entertained and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused.*

7. Admittedly, civil dispute between the parties over share of property is going on and applicant in order to convert the said dispute into criminal litigation is trying to register case against his opponents, otherwise he has failed to make out any case for taking cognizance of offence and learned Ex-Office of Justice while deciding the application u/s 22 A&B Cr.P.C should apply its mind as to whether the applicant has approached the Court with clean hands or it is tainted with malice. No illegality has been committed by the Ex-Office Justice of Peace while passing the impugned order. Resultantly, instant Criminal Miscellaneous Application is dismissed.

J U D G E

