

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS

Crl. Misc. Application No.S-341 of 2024

DATE ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection.
2. For orders on M.A No.3721/2022.
3. For hearing of main case.

23.12.2025

Mr. Sher Ali Behan, advocate for respondents No.2 to 8.

Mr. Neel Parkash, Deputy Prosecutor General Sindh.

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Applicant Waseemullah has impugned order dated 16.03.2022 passed by learned Additional Sessions Judge-II, Sanghar in Crl. Revision Application No.11 of 2021 whereby learned Revisional court maintained the order dated 22.04.2021 passed by Civil Judge and Judicial Magistrate-III, Sanghar in Direct Complaint No.02/2021 "*Re-Waseemullah Vs. Muhammad Afzal and others*" for offence under sections 392, 457, 506(ii), 504, 147, 148 and 149 P.P.C whereby Civil Judge and Judicial Magistrate-III, Sanghar, hence he preferred instant Crl. Misc. Application.

Junior partner of Mr. Muhammad Siddique Buledi, learned counsel for the applicant argued that cognizable offence is made out from the contents of the Direct Complaint but the Judicial Magistrate-III, Sanghar dismissed the Direct Complaint. He submits that the impugned orders passed by the trial court as well as the Revisional Court are illegal and result of misreading and non-reading of the record; therefore, the same may be set-aside with direction to the trial court to take cognizance of the Direct Complaint in accordance with law. Complainant/applicant also submits that respondents/accused have illegally occupies his land, therefore, he has filed instant Crl. Misc. Application.

Mr. Sher Ali Behan advocate files Vakalatnama on behalf of the respondents No.2 to 8 which is taken on record. He submits that there is civil litigation pending between the parties and that he has produced compromise application moved by both parties in F.C Suit No.35/2020 along with the compromise order dated 08.04.2023 passed by the learned

Senior Civil Judge-II, Sanghar in the aforesaid F.C suit. He further submits that an amount of Rs.9,45,00,000/- (Rupees Nine Crore and forty five lacs) has already been paid and the remaining amount of Rs.2,20,00,000/- (Rupees Two Crore and twenty lacs) were paid by the respondents through pay order alongwith the compromise application and that there is no outstanding amount against the respondents. He further submits that the applicant has malafidely initiated criminal proceedings and that no such incident of robbery was committed by the respondents; therefore, the Criminal Miscellaneous Application may be dismissed.

Learned D.P.G supports the impugned order passed by trial court as well as Revisional court.

Heard junior partner of Mr. Muhammad Siddique Buledi, learned counsel for the applicant, learned counsel for the respondents, learned D.P.G for the State and perused the record.

It appears that there is civil litigation between the parties and learned counsel for the respondents has filed the compromise order passed by the learned Senior Civil Judge-II, Sanghar. I have gone through the order passed by learned Civil Judge and Judicial Magistrate-III, Sanghar in Direct Complaint No.02/2021 filed by the applicant against the respondents under sections 392, 457, 506(ii), 504, 147, 148 and 149 P.P.C whereby Direct Complaint was dismissed by learned trial court vide order 22.04.2021 as well as order dated 16.03.2022 passed by learned Additional Secession Judge-II, Sanghar in Crl. Revision Application No.11 of 2021 whereby order passed by learned trial court was maintained. Relevant portion of impugned order dated 16.03.2022 is reproduced as under:-

“I have gone thoroughly of the contents of Para No. 04 of the order of the Direct Complaint of the learned Civil Judge & J.M-III, Sanghar Mr. Ahmed Sarwar, which clearly shows that there is no independent corroboration of the offence alleged against the accused persons. The complainant has also concealed the material facts from Court and it is a pure civil dispute. The Para 04 of the order of Direct Complaint is reproduced as under:

“It is surprising to note that complainant stated in his statement that he entered in to agreement with Muhammad Afzal and Haji Safar Khan of his land consist of 144 acres in the sum of Rs.9,45,00,000/- and they paid him Rs.1,80,00,000/- in different

installments and gave him last installment of amount Rs.7,00,000/- on dated 30.03.2020 and remaining amount Rs.7,65,00,000/- were yet to be paid but on the other hand complainant in his application stated that total consideration amount was 9,45,00,000/- and proposed accused paid Rs.30,00,000/- as earnest money and balance amount Rs.5,20,00,000/- were yet to be paid but they failed to pay the balance amount Rs.520,00,000/- therefore sale agreement was terminated. Complainant did not mention about payment of Rs.1,80,00,000/- which was given by proposed accused to complainant in different installments in his application. Further such story does not attract to the prudent mind as to how an amount Rs.5,20,00,000/- is outstanding by paying only 30,00,000/- out of Rs.9,45,00,000/- which clearly shows that complainant has not disclosed the true facts in his application and he has not approached the Court with clean hands and concealed the material facts from the Court."

It has also been admitted by the learned advocate for the applicant Mr. Zaffar Hayat Shah that there is dispute between the parties over payment of certain amount in respect of the sale of the land worth Rs.9,45,00,000/- out of which the accused persons paid about Rs.4,25,00,000/-.

In view of the above facts and circumstances, it is established that the instant case is of civil nature and complainant by concealing the real facts from the trial court tried to implicate the accused persons in criminal case. The learned Trial Court has rightly taken the view that it is a case of civil nature and the proper remedy for the applicant is to file a Suit for Settlement of Account and Recovery against the accused persons. The order of the Trial Court is not suffering from any illegality or infirmity according to the Criminal Law of Justice, as such the Revision is not entertainable, the same is hereby dismissed in limini"

Both orders passed by two courts below do not suffer any illegality or irregularity which have been passed in accordance with law. In view of above, the Crl. Misc. Application is dismissed alongwith application.

JUDGE