

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Misc. Application No. S-264 of 2024

Date of hearing	Order with signature of Judge
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- 1. For hearing of main case.
- 2. For hearing of MA No.2315/2024 (S/A)

16.09.2024

Raja Altaf Hussain Shar, Advocate for applicant.  
Syed Shafquat Ali Shah Masoomi, Advocate for Respondent No.4.  
Mr. Imran Mobeen Khan, APG.

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**Mehmood A. Khan, J.** Applicant Syed Karam Ali Shah has challenged the order dated 13.05.2024 passed by learned Additional Sessions Judge-II/Ex-officio Justice of Peace Khairpur, in Criminal Misc. Application No. 1013/2024 whereby the application under section 22-A B Cr.P.C filed by respondent NO.4 Pir Syed Imran Ahmed Shah was allowed with directions to SHO of the Police station concerned to record statement of applicant and if cognizable offence is made out, and to incorporate the same into book of Section 154 Cr.P.C i.e lodge the FIR. The gist of complaint made is that his vehicle/land cruiser was snatched by the respondent duly identified by show of weapons to which despite approach FIR has not been lodged.

2. Learned counsel for the applicant contends that parties are relatives to each other. He further contends that after the death of father of respondent No.4 disputes have come up and in the present case the documents of the subject vehicle were acquired by the said respondent who got the same transferred in his name in respect of which the civil suit has been filed by the brother of late Pir Syed Zahoor Ahmed Shah who was well known figure in the locality. He further contends that an N.C was lodged with the concerned Police

Station on 05.11.2023 in respect to the overt acts of respondent No.4 and in the present matter the vehicle is not available with the present applicant as such the impugned order is liable to be set aside. Learned counsel for the respondent No.4, however, denies the filing of civil suit or that any report having been as alleged.

3. Learned counsel or the complainant/respondent No.4, further relies upon the portion of the impugned order in respect to the exercise of the powers under section 22-A B Cr.P.C, specified in the fourth paragraph of the impugned order. He further contends that police had failed to register the FIR when they were promptly approached by the applicant on account of influence of the present applicant and as such approach to the learned Sessions Judge, Khairpur was made. He further contends that investigation is only available after the FIR is lodged and proceedings in accordance with law has not taken place on the part of the concerned officials on account of private respondents. Learned counsel has relied upon the reported cases of Abdul Rehman Malik vs. Synthia D. Ritchie, Americans National and others (2020 SCMR 2037) and Syed Qambar Ali Shah vs. Province of Sindh and others (2024 SCMR 1123). He has also referred to photographs and USB filed earlier, contending that the same show the subject vehicle and private respondents. Learned APG supports the impugned order.

4. Having heard learned counsels and gone through the record wherein interim orders for suspension of the impugned was obtained on 16.05.2024,.

5. The impugned order has directed lodging of FIR on recording of statement of the complainant in case cognizable offence is made out. In this regard the consequent element of section 182 P.P.C is also referred therein as such the learned Justice of Peace has prima facie kept the required balance. The contentions of learned counsel of the applicant as to the non-existence of the alleged crime can only be come up after investigation has taken place and under the available proceedings without lodging of the FIR no investigation is available. Although the material referred to this Court is not objected to, I have deliberately restrained myself from passing any remark so that the

cases of the parties may not prejudice irrespectively any requirement to disturb the impugned order is not found available as not only the investigation is yet to take place, the nature of allegation itself calls for cognizable offence and nothing is present on record to show that such an act may not have taken place altogether. Prima facie apart from the foregiven in case recovery is required to be effected as such no disturbance to the impugned order is found available. In the said circumstances, order dated 16.05.2024 stands re-called and instant Criminal Misc. Application stands dismissed having no merits.

JUDGE

Irfan/PA