

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

CrI. Misc. A. No.S-100 of 2018.

Azizullah. Applicant.

Versus.

Learned Ist. Additional District Judge
Dadu and others. Respondents.

Mr. Ayaz Ali Mangi, Advocate for the applicant.

Mr. Shahid Ahmed Shaikh, DPG.

Mr. Pervez Tarique Tagar, Advocate for respondent No.3.

Date of hearing and order: 19.06.2018.

ORDER

IRSHAD ALI SHAH, J.- The facts in brief, necessary for passing of instant order are that as per the applicant, the private respondent issued a cheque in his favour dishonestly, which was bounced by the concerned Bank when it was presented there for encashment, for that his FIR was not recorded by the police. Consequently, he filed an application under section 22-A & B Cr.P.C. for issuance of direction against the police to record his statement under section 154 Cr.P.C., but his such application was dismissed by the learned Ist. Additional Sessions Judge / Ex-Officio Justice of Peace, Dadu, by way of order dated 08.02.2018, which he has impugned before this Court by way of instant application under section 561-A Cr.P.C.

2. It is contended by the learned counsel for the applicant that the narration made by the applicant was constituting commission of cognizable offence, yet the application of the applicant for issuance of direction against the police to record his statement under section 154

Cr.P.C. was dismissed by learned Ist. Additional Sessions Judge / Ex-Officio Justice of Peace, Dadu, without any justification. By contending so he sought for direction against the police to record the statement of the application under section 154 Cr.P.C.

3. Learned counsel for the private respondent by supporting the impugned order has sought for dismissal of the instant application by contending that there is dispute between the parties over settlement of accounts relating to sale and purchase of plot and cattle, which could only be resolved by civil Court having jurisdiction.

4. Learned DPG was fair enough to state the applicant has an alternate and adequate remedy to exhaust by way of filing a direct complaint before the Court having jurisdiction.

5. I have considered the above arguments and perused the record.

6. As per report of the police, which was furnished before the learned Ist. Additional Sessions Judge / Ex-Officio Justice of Peace, Dadu, there is dispute between the applicant and the private respondent over settlement of account relating to sale and purchase of cattle. Such report apparently has not been rebutted by the applicant by way of filing his counter affidavit or objections thereto, which appears to be significant. If for the sake of arguments it is believed that the cheque was issued in favour of the applicant by the private respondent dishonestly even then the police has hardly to do anything, as entire evidence which is likely to be collected by the police during course of investigation is already lying with the applicant. In that context, it is rightly being contended by the learned DPG that the applicant has an alternate and adequate remedy to exhaust in shape of filing a direct

complaint before the Court having jurisdiction. In these circumstances, the learned Ist. Additional Sessions Judge / Ex-Officio Justice of Peace, Dadu by dismissing the application of the applicant for recording his statement under section 154 Cr.P.C. has committed no wrong, which could be made right by this Court by way of instant criminal miscellaneous application under section 561-A Cr.P.C. It is dismissed accordingly.

J U D G E

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