

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Crl. Misc. A. No.S-388 of 2017.

Shahrukh Rasheed.Applicant.

Versus.

Hasnain Shah and others.. . . .Respondents.

Mr. Muhammad Jameel Ahmed, Advocate for the applicant.

Mr. Babar Hussain Arain, Advocate for respondents No.1 and 2.

Ms. Sobia Bhatti, A.P.G.

Date of hearing and order: 27.06.2018.

ORDER

IRSHAD ALI SHAH, J.-. It is alleged by the applicant that the private respondents issued cheques in his favour dishonestly, those when were produced before the concerned Bank for encashment, were bounced. By alleging so, he sought for issuance of direction to police for recording his FIR by way of making an application under section 22-A 6(1) Cr.P.C., which was dismissed by the learned IInd Additional Sessions Judge / Ex-Officio Justice of Peace, Shaheed Benazirabad, by way of an order dated 18.02.2017, which the applicant has impugned before this Court by way of instant criminal miscellaneous application.

2. It is contended by the learned counsel for the applicant that the learned IInd Additional Sessions Judge / Ex-Officio Justice of Peace, Shaheed Benazirabad, has dismissed the application under section 22-A 6(1) Cr.P.C. of the applicant without any justification, otherwise the disclosure made by the applicant was constituting commission of

cognizable offence. By contending so, he sought for direction against the police to record FIR of the applicant at his verbatim.

3. It is contended by the learned counsel for the private respondents that cheques were not issued by them in favour of the applicant and the applicant by committing fraud and forgery is intending to involve the private respondents in a false case. By contending so, he sought for dismissal of the instant criminal miscellaneous application.

4. Learned APG 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. The cheques were bounced on 31.01.2017. The applicant by way of making an application under section 22-A 6(1) Cr.P.C. sought for direction for recording his FIR on 09.02.2017, with delay of 10 days, such delay could not be lost sight of. The report of the police, which was furnished before the learned IInd Additional Sessions Judge / Ex-Officio Justice of Peace, Shaheed Benazirabad, was to the effect that there is dispute between the parties over settlement of account. Such report of the police apparently was not 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 allegation leveled by the applicant against the private respondents is not false and for that his FIR is not being recorded by the police then there could be no denial to the fact 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 IInd additional Sessions Judge / Ex-Officio

Justice of Peace, Shaheed Benazirabad, by dismissing the application of the applicant for recording his FIR has committed no wrong, which could be made right by this Court by way of instant criminal miscellaneous application. It is dismissed accordingly.

J U D G E

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