

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Misc. A. No.S-304 of 2018.

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection.
2. For hearing of main case.

11.02.2019.

Mr. Mazhar Ali Laghari, Advocate for the applicant.

Mr. Wali Muhammad Khoso, Advocate alongwith proposed accused No.1 to 3.
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Through the instant Criminal Miscellaneous Application, order dated 06.06.2018, passed by the learned IInd Additional Sessions Judge / Ex-Officio Justice of Peace, Badin, is impugned where application under section 22-A & B Cr.P.C. was dismissed.

2. Learned counsel for the applicant by placing reliance on certain documents (available on record) submits that the respondents have forcibly entered the land of the applicant and cut two mango trees, damaged sugarcane crop of the applicant and also made aerial firing and when he approached to the concerned SHO he refused to record his statement, therefore, the applicant approached the learned Ex-Officio Justice of Peace by moving application under section 22-A & B Cr.P.C, which was dismissed, thus he preferred the instant criminal miscellaneous application. Learned counsel placed reliance on the case of **Asif Ali Jatoi v. Station House Officer, Police Station Qasimabad, Hyderabad and 2 others** (2018 YLR 318).

3. Learned counsel for proposed accused submits that there is civil dispute pending between both parties. He states that the proposed accused have allegedly been attacked by the applicant, for which an F.I.R. bearing Crime No.47/2019 has been lodged. He further states that applicant intends to convert such civil dispute into criminal one of which no opportunity should be given to him.

4. Heard parties counsel and perused the material available on record.

5. Admittedly, a civil dispute over some landed property is going on between both parties for which civil suit is also pending before the Revenue Hierarchy. Admittedly, both parties are trying to convert the said civil dispute into criminal one and an F.I.R. bearing Crime No.47/2019 has also been lodged by the proposed accused party against the applicant, however, no cavil could be placed on the right of the applicant to let criminal law come into motion on his behest.

6. In view of the above, I found that impugned order has failed to meet the ends of justice and it requires interference of this Court, therefore, the instant Criminal Miscellaneous Application is allowed. Impugned order is set aside. Let the applicant approach the concerned SHO, who shall record his statement and from such statement if a cognizable offence is made out, then he shall incorporate the same in 154 Cr.P.C. book and proceed further in the matter.

JUDGE

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