

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Miscellaneous Application No.131 of 2019

Date	Order with signature of Judge
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Present: Mr. Justice Nazar Akbar

Applicant : Mrs. Azra Ibrahim,
through Ms. Naheed Akhtar, Advocate.

Versus

Respondent No.1 : Station House Officer, P.S Darakshan.

Respondent No.2 : The State.
Ms. Rahat Ahsan, Additional P.G.

Date of hearing : **01.04.2019**

Date of Decision : **01.04.2019**

JUDGMENT

NAZAR AKBAR, J. Through this CrI. Misc: Application the applicant has challenged the order dated **01.02.2019** passed by the learned VI-Additional Sessions Judge South, Karachi in Criminal Miscellaneous Application No.53/2019, whereby the application **Section 22-A & B Cr.P.C** filed by applicant was dismissed.

2. Learned counsel for the applicant contended that the applicant has filed instant Criminal Miscellaneous Application through attorney, who is her son-in-law and was residing with her on first floor portion of her Bungalow No.38/1, measuring 500 square yards, consist upon ground plus first floor, street No.17, Khayaban-e-Mujahid, DHA, Karachi. She claimed that the applicant is an old lady and was abroad for her treatment, whereas, her son-in-law/attorney alongwith his family also went to see some relatives, therefore, the first floor portion of the bungalow was locked. On 02.01.2019 when applicant's son-in-law/attorney came to his house he was astonished

to see that the entrance/stairs of first floor were demolished and walls and new gates/doors were raised on the entrance and the way to first floor was closed so that no one can enter into the first floor and there were 8/10 armed guards were there, who restrained the applicant and her son-in-law to enter into their first floor portion and started misbehaving, maltreatment and extended threats of dire consequences. Therefore, the applicant approached the police but the police has not taken any action against the accused persons, therefore, the applicant approached the learned Justice of Peace and filed application under Section 22-A and B Cr.P.C which was dismissed by the trial Court by order dated **01.02.2019** which is impugned herein this Criminal Miscellaneous Application.

3. I have perused the impugned order in which the trial Court has observed that:-

Record reveals that as per tenancy agreement the ground floor of the premises was let out on rent to the attorney of the applicant being owner of the entire property whereas during the pendency of litigation he also filed M.R.C No.631/2016 in the Court of Rent Controller-II, South at Karachi, but all such proceedings have been concealed by the applicant in the application though he has admitted such proceedings before the court after filing the objections by the proposed accused through attorney which clearly shows that he is not come to court with clean hands. It is also matter of record that the applicant filed sale agreement dated 05.04.2013 but surprisingly he/she did not bother to get transfer the property although six years have been passed. In the above said situation when the proposed accused No.1 filed the rent proceedings against him. Further no such document has been produced by the applicant regarding having possession of the first floor of the premises after execution of the tenancy agreement between the respondent No.1 and applicant or her attorney dated 22.04.2018. On the other hand the report submitted by the respondent (SHO) also shows that there is a dispute between the parties on the land and both parties are making false applications against each other and trying to lodge F.I.R against each other by making false stories. I am of the view that the dispute between the parties is a civil nature dispute and the applicant/attorney is trying

to convert into criminal litigation therefore, I do not find any merit in this application which is dismissed however the applicant is at liberty to approach competent civil Court having jurisdiction.

The above order clearly reflects that the dispute between the parties is of civil nature and learned counsel for the applicant also concedes that rent case was also filed before the concerned Court. Therefore, no case is made out to interfere with the impugned order passed by the learned trial Court and the remedy for the applicant is to approach Civil Court for redressal of his grievance.

4. In view of the above, instant Criminal Miscellaneous Application was dismissed by short order dated **01.04.2019** and these are the reasons for the same.

JUDGE

Karachi
Dated: 06.04.2019

Ayaz Gul