

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Misc. Appln. No.356 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of main case

27.05.2019

Mr. Muhammad Hanif Qureshi, advocate for the applicant.

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NAZAR AKBAR,J:- This Criminal Miscellaneous Application is filed by the applicant against the order dated **21.10.2016** passed in **Crl. Misc. Application No.1491/2016** by IInd Addl. Session Judge / Ex-Justice of Peace, East Karachi, whereby dismissed the Crl. Misc. Application filed by the applicant.

2. Learned trial Court after hearing the parties, by order dated **21.10.2016** has dismissed the Crl. Misc. Application. Therefore, the applicant has preferred instant Cr. Misc. Application.

3. I have heard the learned counsel for the applicant and perused the record.

4. The record shows that the applicant has filed constitution petition in 2016 challenging the order passed by the Session Judge refusing to entertain his application under **Section 22-A** of the Cr.P.C. Prior to this application he has earlier filed an application under **Section 22-A** of the Cr.P.C against the same SHO, which was also dismissed by order dated **14.5.2016** but the said order not challenged. He has also one FIR and a Petition in Lahore High Court against the proposed accused, which have been disposed of.

5. I have gone through the impugned order in which the trail Court elaborately discussed the case and has come to the conclusion that no case is made out for direction to the SHO for registration of FIR. After such order the complainant has not become a remediless person since the noncooperation of police to register FIR can be countered by the

complainant by filing direct complaint under **Section 200** of the Cr.P.C. In this contest, I may refer to the judgment of my brother Mr. Muhammad Iqbal Kalhoro, J., in the case of *Nazir Ahmed ..Vs.. SHO P.S Adam Pur District Ghotki and another*, (**2015 P.Cr.L.J 846**) and the relevant observations are as follows:-

Under the similar circumstances the honourable Supreme Court while dealing with a Criminal Petition No. 54-K of 2014 in a case of *Shadi Khan v. SSP Naushehro Feroz and others* has been pleased to observe in para No.5 of the order dated 5-5-2014 as under:--

"We have enquired from the learned counsel for the petitioner that why the petitioner has not chosen to file a criminal complaint, in such like circumstances, when there are criminal proceedings between the parties. His reply was simple that a private complaint is not an effective remedy and therefore the petitioner has chosen to proceed under 22-A, Cr.P.C. and 491, Cr.P.C. We are not persuaded by the contention of the learned counsel. A private complaint has sanctity of law and effective remedy and ought to be resorted to particularly when the petitioner has reservations against police. The reasoning for dismissal of the petitioner's proceedings in the impugned judgment is appropriate and does not warrant interference by this Court. Accordingly, this Petition is dismissed."

After having sought the guidance from the above scholarly observation of the honourable Supreme Court and discussing the case of the applicant as above, I find no illegality in the impugned order dated 27-10-2011 passed by the learned Sessions Judge/Justice of Peace, Ghotki. Resultantly the application is dismissed. The applicant however, may approach the appropriate forum through a private complaint for redressal of his grievance, if any, in accordance with law.

6. In view of the above, no case is made out for interference in the impugned order by this Court; therefore, this Crl. Misc. Application being devoid of any merit is dismissed alongwith listed application.

SM

JUDGE