

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P.No.D-2325 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A. 8175/2011 (stay)
2. For hearing of main case

23.09.2020

Mr. Ahsan Gul Dahri, Advocate for the petitioner.
Mr. Shewak Rathore, D.P.G for the State.
Mr. Muhammad Ismail Bhutto, Addl.A.G.

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Through this Constitution Petition petitioner Shahmeer Khan has called in question order dated 08.12.2011, passed by learned Sessions Judge / Ex-Officio Justice of Peace Shaheed Benazirabad in Criminal Miscellaneous Application No.1730/2011, whereby after hearing the advocates for the parties directions were issued to S.H.O P.S. Mirzapur to record the statement of applicant, in case, from his statement, cognizable offence is made out, then to register the F.I.R. One of the proposed accused Shahmeer Khan has filed instant petition. Notice of this petition was issued to the respondents as well as Addl. P.G. Today, respondent No.3 is called absent. We have observed that operation of the impugned order dated 08.12.2011 has been suspended since 29.12.2011.

2. Mr. Ahsan Gul Dahri learned counsel for petitioner / proposed accused contended that no offence is made out from the material available on record and learned Sessions Judge / Ex-Officio Justice of Peace Shaheed Benazirabad had failed to apply his judicial mind while issuing directions to the S.H.O. for registration of the F.I.R. It is further submitted that complainant had suppressed material facts before Ex-Officio Justice of Peace and prayed for setting aside the impugned order.

3. Mr. Shewak Rathore learned D.P.G. submits that prima facie a cognizable offence has been committed; police had refused to register the F.I.R. and directions for recording the statement have rightly been issued by learned

Sessions Judge / Ex-Officio Justice of Peace, for registration of the F.I.R. in case from his statement cognizable offence is made out. He further submits that allegations against proposed accused are that they have committed murder of the son of complainant, case requires investigation.

4. Mr. Muhammad Ismail Bhutto learned Addl.A.G. supported the arguments advanced by learned D.P.G.

5. We have carefully heard the arguments of the learned counsel for the parties and perused the impugned order. For the sake of convenience impugned order dated 08.12.2011 passed by learned Sessions Judge / Ex-Officio Justice of Peace Shaheed Benazirabad is reproduced as under:-

“08.12.2011

Heard advocates for the parties and perused report of the S.H.O. of PS Mirza Pur brought by PC-1966 Haji Qadir Bux.

The S.H.O of PS Mirza Pur is directed to register the report of the applicant as and when he appears at PS and disclosed the facts of Cognizable Offence. If after Investigation the Investigation Officer found that the case registered by the applicant is false, then he should take action against applicant for lodging false case as per law.

Let the copy of this order be sent to the S.H.O of PS Mirza PUr for compliance.

In view of the above reasons this application is disposed of accordingly.

Announced in open Court.

Given under my hand and seal of the Court this 8th day of December, 2011.

*Sd/
Sessions Judge,
Shaheed Benazirabad”*

6. It appears that directions issued by learned Sessions Judge / Ex-Officio Justice of Peace Shaheed Benazirabad are based upon the sound reasons. S.H.O. concerned had also refused to register F.I.R. and learned Ex-Officio Justice of Peace had rightly directed the S.H.O. P.S Mirzapur to record statement of Bachal Khan, in case a cognizable offence is made out, then to record F.I.R. We have noted that interim orders are operating since 2011. Section 154 Cr.P.C. provides

that any information relating to the commission of a cognizable offence if given in writing or orally or in any manner to an officer incharge of a Police Station shall be reduced in writing by him, shall be signed by the informer and substance thereof be entered in a book to be kept by such officer in such form as provided by Government. S.H.O. concerned was bound to register case on receiving information regarding commission of cognizable offence. In the present case, S.H.O. had failed to perform his mandatory duty. This Constitution Petition is without merit and the same is dismissed along with listed application.

Let the copy of the order be sent to the S.H.O P.S Mirzapur through concerned SSP by fax for compliance.

JUDGE

JUDGE

Ali Haider

