

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**  
Cr. Misc. Application No.S- 88 of 2020

Date

Order with Signature of Hon'ble Judge

**For orders on office objection.**  
**For orders on MA-1530/2020**  
**For hearing of main case.**

**19-10-2020.**

Mrs. Razia Ali Zaman, advocate for applicant.  
Mr. Aneet Kumar, advocate for proposed accused.  
Mr. Shahzad Saleem Nahiyoona, D.P.G for the State.

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**IRSHAD ALI SHAH, J.-** The facts in brief necessary for disposal of instant Criminal Misc. Application are that the applicant alleging unnatural death of his son Rasool Bux at the hands of private respondents, on account of refusal of police to record his FIR by making an application u/s 22-A & B Cr.P.C sought for issuance of direction against the police to record his FIR, it was declined by learned Ex-officio Justice of Peace, Badin vide his order dated 11.11.2019, which is impugned by the applicant before this Court by way of instant Cr. Misc. Application u/s 561-A Cr.P.C.

2. It is contended by learned counsel for the applicant that the cognizable offence has taken place therefore; learned Ex-officio Justice of Peace at Badin was not justified to have declined issuance of direction against the police to record the FIR of the applicant. By contending so, she sought for setting aside of the impugned order with direction to SHO PS Shaheed Fazil Rahu to record FIR of the applicant. In support of her contention she relied upon case of ***Muhammad Bashir vs Station House Officer, Okara Cantt and others (PLD 2007 S.C 539).***

3. Learned D.P.G for the State did not support the impugned order. However, learned counsel for the private respondents by supporting the impugned order sought for dismissal of instant Cr.Misc. Application by contending that cause of death of the deceased could not be ascertained and the applicant is intending to involve the private respondents in false case to satisfy his enmity with them.

4. I have considered the above arguments and perused the record.

5. No doubt the actual cause of the death of the deceased could not be ascertained but the allegation of the applicant that the deceased has been done to death by the private respondents in furtherance of their common intention to satisfy their enmity with him could not be ignored. Such allegation being serious in nature requires probe. The probe could only be achieved when formal FIR of the incident is recorded by the police. In these circumstances learned Ex-officio Justice of Peace ought not to have declined issuance of direction against police to record FIR of the incident at the instance of the applicant by way of impugned order, which could not be sustained, it is set-aside with direction to SHO PS S.F.R District Badin to record FIR of the incident at the instance of applicant.

6. The instant Cr. Misc. Application is disposed of accordingly.

**Judge**