

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr. Misc. Appln. No.S- 115 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on MA-2245/2020
3. For hearing of main case.

06.11.2020.

Mr. Abdul Khaliq Leghari, advocate for applicant.
Mr. Yasin Kamboh, advocate for respondents No.5 to 10
Ms. Sana Memon, A.P.G for the State.

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Irshad Ali Shah J;- It is the case of the applicant are that the private respondents by committing mischief stolen his standing trees from his landed property; on account of failure of the police to record his FIR, he sought for direction against the police to record his FIR by making an application u/s 22-A & B Cr.P.C, it was dismissed by learned Ex-officio Justice of Peace, Matli vide his order dated 06.03.2020 which is impugned by him before this Court by way of instant application u/s 561-A Cr.P.C

2. It is contended by learned counsel for the applicant that the cognizable offence has been committed by the private respondents as is evident of the report of the police therefore, learned Ex-officio Justice of Peace, Matli ought not to have dismissed the application of the applicant by way of impugned order. By contending so, he sought for setting aside of impugned order with direction to police to record the FIR of the applicant for the above said incident.

3. Learned A.P.G for the State and learned counsel for the private respondents by supporting the impugned order have sought for dismissal of the instant Cr.Misc. Application by contending that the applicant is intending to resolve his dispute with the private respondents over landed property by involving them in a false cases one after other.

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

5. Admittedly, there is dispute between the applicant and the private respondents over landed property and such dispute is pending adjudication before the Courts having jurisdiction. In that situation, the intention on the part of applicant to involve the private respondents in a case for allegedly having cut down and stolen his standing trees from the subject land smells of malafide.

6. In case of *Rai Ashraf and others vs Muhammad Saleem Bhatti and others (PLD 2010 Supreme Court 691)* it has been held by Hon'ble apex Court that;

“Application for registration of FIR had been filed with mala fide intention---High Court had erred in law to exercise discretion in favour of applicant---Constitution petition was not maintainable as disputed questions of fact could not be decided in constitutional jurisdiction---Supreme Court set aside impugned order in circumstances.”

7. In view of above, the instant Criminal Misc. Application fails and it is dismissed accordingly

JUDGE