

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

Cr. Misc. Appl: No.S- 565 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A 7427/2020.
2. For orders on office objection.
3. For orders on M.A 7428 /2020.
4. For hearing of main case.
5. For orders on MA 7429/2020.

20.10.2020

Mr. Ghulamullah Chang, Advocate for applicants.

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**Zulfiqar Ahmad Khan, J:-** Through the instant Criminal Miscellaneous Application, order dated 16.10.2020, passed by learned 1<sup>st</sup> Additional Sessions Judge / MCTC, Badin, in the capacity of Ex-Officio Justice of Peace, is impugned where an application under section 22-A 6(1) Cr.P.C. filed by respondent No.4 Allah Bachayo for registration of F.I.R against the present applicants was allowed.

2. Brief facts of the case in nutshell as alleged in the application under Section 22-A 6(1) Cr.P.C filed by respondent No.4 are that son of respondent No.4 namely Madad Ali @ Madoo sustained firearm injuries at the hands of proposed accused / applicants in his village and when he was taken to the hospital, in the way police officials whose names are also mentioned in the said application as proposed accused, took him in injured condition in the police mobile and thereafter, committed his murder by declaring that it was a police encounter.

3. It is *inter alia*, contended by the learned counsel that applicants are innocent and have been falsely implicated in the case in hand; that report of the SSP Complaint Cell, Badin shows that the deceased was involved in a number of criminal cases at different police stations, he was a habitual

offender and has been killed in a police encounter within the jurisdiction of P.S Shaikh Bhirkyo and the applicants have nothing to do with the alleged incident; that the learned Ex-Officio Justice of Peace without applying its judicial mind allowed the application of applicant/respondent No.4 for registration of FIR against the proposed accused/applicants No.1 to 5; that the learned Ex-Officio Justice of Peace did not consider the material available on record, nor applied his judicial mind and acted beyond his jurisdiction / domain. He lastly has prayed for setting-aside the impugned order dated 16.10.2020.

4. Heard and perused.

5. From the perusal of impugned order, it appears that the learned Ex-Officio, Justice of Peace has rightly observed that the alleged incident had occurred in two episodes as question of territorial jurisdiction was involved in the matter. Firstly, showing the incident of sustaining injuries by deceased at the hands of private proposed accused inside the village falling within the territorial jurisdiction of District Badin; Secondly, from the territorial jurisdiction of P.S Tando Muhammad Khan when he was taken away by the proposed accused / police officials while going to hospital in a Rickshaw in the injured condition. It further appears that complainant`s daughter and other witnesses were available at the time of incident who have supported the version of complainant. Certain documents were also filed in support of his application u/s 22-A 6(1) Cr.P.C by the applicant / respondent No.4. For the sake of convenience, it would be conducive to reproduce the concluding paragraphs No.14 and 15 of the impugned order which reads as under:-

**“14. In my humble view and on the basis of facts of first episode of incident and the name of witnesses mentioned in the memo of application, prima facie case of directions to SHO PS Matli is made out to record the**

**statement of applicant as cognizable offence is made out against proposed accused persons 1) Mumtaz son of Siddique Jokhio (2) Noor Muhammad son of Muhammad Malook Jokhio (3) Shakeel son of Jan Muhammad Jokhio (4) Nisar son of Manzoor Jokhio (4) Muhammad Hassan alias Baboo son of Gul Hassan Jokhio and investigate the case in accordance with law.**

**15. The second Episode of alleged incident was not taken place in the territorial Jurisdiction of PS Matli and as per contents of memo of application, the second Episode of the events was taken place within the territorial Jurisdiction of PS of Tando Muhammad Khan, so request of registration of FIR beyond the territorial Jurisdiction would be against the spirits of law and the same is declined.”**

In the given circumstances, I am of the considered view that the impugned order is speaking one and well reasoned passed within the four corners of law, as such, does not require any interference by this Court. Accordingly, the instant Criminal Miscellaneous Application is dismissed in limine alongwith listed applications.

JUDGE