

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.  
Cr. Misc. Appln. No.S- 88 of 2021

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA-1409/2021
2. For orders on office objection(s)
3. For orders on MA-1410/2021
4. For hearing of main case.

02.03.2021.

Ms. Nazeeran Soomro, advocate for applicant.

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1. Listed application for urgent hearing is disposed of.
- 2to4. The facts in brief necessary of disposal of instant Criminal Misc. Application are that the proposed accused by making trespass into house of applicant take away his belonging, therefore, he by making an application u/s 22-A & B Cr.P.C sought for direction against the police to record his FIR. It was dismissed by learned Ex-officio Justice of Peace/Sessions Judge, Mirpurkhas vide his order dated 19.01.2021, which is impugned by the applicant before this Court by way of instant Criminal Misc. Application.

It is contended by the learned counsel for the applicant that a cognizance offence was committed by the proposed accused therefore, learned Ex-officio Justice of Peace/Sessions Judge, Mirpurkhas ought not to have dismissed the application of the applicant by way of impugned order, same being illegal is liable to be set-aside after notice to other side.

I have considered the above arguments and perused the record.

As per police report, the relatives of the applicant being habitual offenders are involved in criminal cases and they in order to put the police personals under pressure are intending to get them involved in criminal case through the applicant. Perhaps on the basis of such police report, the application of the applicant was dismissed by way of impugned order, by learned Ex-officio Justice of Peace/Sessions Judge, Mirpurkhas. No illegality even otherwise is pointed out, which may justify to make interference with the impugned order by this Court.

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;

*"The learned High Court had erred in law to exercise discretion in favour of the respondent No.1 without realizing that the respondent No.1 had filed application before the Additional Sessions Judge/Ex-Officio Justice of the Peace to restrain the public functionaries not to take action against him in accordance with the LDA Act 1975, Rules and Regulations framed thereunder, therefore, respondent No.1 had filed petition with mala fide intention and this aspect was not considered by the learned High Court in its true perspective."*

In view of above the instant Criminal Misc. Application being misconceived is dismissed in limini with an advise to the applicant to have a recourse under section 200 Cr.P.C.

JUDGE