

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr. Misc. Appln. No.S- 375 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of main case.
2. For hearing of MA-6613/15

16.12.2019.

Mr. Pir Bukhsh Bhurgari, advocate for applicant.
Ms. Sobia Bhatti, A.P.G for the State.

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The facts in brief necessary for disposal of instant Criminal Misc. Application as per the applicant are that the complainant party actually sustained injuries as a result of road accident. It was given cover of the incident by them allegedly at the hands of applicant and others and then they lodged FIR of the alleged incident after having a recourse u/s 22-A and B Cr.P.C. On investigation, such FIR was cancelled by the police. Subsequently, the complainant party lodged a direct complaint of the incident which has been brought on record by learned IInd Civil Judge & Judicial Magistrate Tando Muhammad Khan. Such order was challenged by the applicant by way of filing Revision Application. It has been dismissed on 07.08.2015 by learned Additional Sessions Judge, Tando Muhammad Khan, which is impugned by the applicant before this Court by way of instant Criminal Miscellaneous Application u/s 561-A Cr.P.C.

It is contended by learned counsel for the applicant that the applicant and others being innocent have been involved in a false case by the complainant party without lawful justification and learned trial Magistrate has taken the cognizance of the incident without applying judicial mind and learned Revisional Court has maintained such order of learned trial Magistrate without lawful justification. By contending so, he sought for quashment of the pending proceedings after setting aside of the impugned orders of the learned trial Magistrate and Revisional Court.

Learned A.P.G for the State sought for dismissal of the instant Cr.Misc.Application by supporting the impugned orders of learned trial Magistrate and Revisional Court.

I have considered the above arguments and perused the record.

In inquiry the burden to make out the case for cognizance is very light while in trial the burden to prove the case beyond doubt is somewhat heavy. In that situation, the cognizance is taken by learned trial Magistrate on complaint after due enquiry as such could not be said to be illegal particularly, when it is not challenged by anyone else excepting the applicant. By taking

cognizance, learned trial Magistrate obviously has committed no wrong which could have been made right by learned Revisional Court. No illegality is pointed out, which may justify making interference with the impugned order of learned Revisional Court, by this Court in exercise of its inherent jurisdiction.

In view of above the instant Cr.Misc. Application is dismissed accordingly.

JUDGE