

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Cr. Misc. Application No.S-12 of 2021*

**Applicant:** Allah Wadhayo through  
Mr. Mian Mumtaz Rabbani, Advocate

**Respondents /  
Proposed accused  
No.4, 5 & 7:** Moula Bux Dayo and others through  
Mr. Amir Abro, Advocate, holding brief for  
Mr. Sundar Khan Chachar, Advocate.

**Respondents /  
Proposed Accused  
No.1, 2, 3 & 6:** Nemo.

**The State:** Syed Sardar Ali Shah Rizvi, Deputy  
Prosecutor General.

**Date of hearing:** 26.03.2021

**Date of decision:** 26.03.2021

## **ORDER**

**KHADIM HUSSAIN TUNIO, J.-** Through captioned Criminal Miscellaneous Application, applicant Allah Wadhayo has impugned the order dated 29-12-2020 passed by the learned Additional Sessions Judge (H), Sukkur, whereby he has dismissed an application under Section 22-A&B Cr.P.C filed by the applicant, seeking directions for registration of F.I.R against proposed accused/respondents.

2. Precisely, the facts of the captioned Criminal Miscellaneous Application are that the applicant has constructed the house over the Auqaf property but proposed accused are falsely claiming themselves as owners of the same. It is also alleged that on 21-12-2020 at 02:00 p.m. proposed accused along with police officials came at house of applicant and beaten him as well as his family members. They also issued threats of dire consequences to the applicant. Thereafter, police officials detained the applicant at Police

Station and snatched Rs.45,000/- from him. The applicant approached the SHO, P.S Rohri for lodging his FIR but did not succeed. Thereafter, he approached the Ex-Officio Justice of Peace by filing application under Section 22-A & B Cr. P.C which has been heard and decided by the learned trial Court through impugned order, hence, this Criminal Miscellaneous Application.

3. Learned Counsel for the applicant has mainly contended that the proposed accused/respondents issued threats of dire consequences to the applicant, his family members and he was detained by the police officials; that the proposed accused are falsely claiming to be owners of Auqaf property; that the learned trial Court failed to consider the facts of applicant's case; that impugned order is opposed to the facts, law, equity and is against the principles of natural justice; that the impugned order suffers from factual and legal aspects of the case; that the cognizable offence has been committed by the proposed accused; that SHO is bound to record statement under Section 154 Cr.P.C; that if any person appears at Police Station and discloses the facts of a cognizable offence, then his statement is to be recorded into a book under Section 154 Cr.P.C, but respondent No.1/SHO P.S. Rohri intentionally and deliberately did not register the FIR of the applicant, who narrated him the facts of a cognizable offence as stated supra.

4. On the other hand, learned Deputy Prosecutor General appearing for the State and learned counsel who holds brief for counsel for respondents/proposed accused, in one voice, supported the impugned order.

5. Heard the arguments of learned Counsel for the applicant, learned counsel for respondents/proposed accused, learned D.P.G and perused the record available before me.

6. From the perusal of the record, it contemplates that the applicant has not disclosed the words uttered by the proposed

accused while issuing threats of dire consequences; that applicant has also not disclosed denomination currency numbers of an amount of Rs.45,000/- which is alleged to have been snatched by the proposed accused; that no specific role is assigned to any of the proposed accused by the applicant; that applicant has not disclosed the area and boundaries of the alleged disputed plot; that the dispute between the parties is the dispute of civil nature; that the parties are disputing with each other over the disputed plot which belongs to Auqaf Department per application; that the applicant has not disclosed the parts of body on which proposed accused beaten him; that the proposed accused have alleged that son of applicant has purchased plot from respondent No.7 in the sum of Rs.1,50,000/- and paid Rs.50,000/- as earnest money and remaining amount was agreed to be paid at the time of transfer of possession of the plot; that the applicant failed to pay the remaining amount to son of respondent No.7 and filed the application with intention to usurp the amount of the respondent which is outstanding against the applicant. There are many precedents / instances regarding misuse of provisions of Section 22-A&B Cr.P.C. and it is basic duty of the Court that such misuse be taken care of and such application should not be lightly entertained and decided in a mechanical manner for issuing directions to police to lodge FIR, conduct investigation and prosecuting the alleged accused.

7. Keeping in view of the foregoing reasons and discussion, I am of the opinion that applicant has failed to make out a case for issuance of directions to the police for registration of F.I.R. Consequently, present Criminal Miscellaneous Application, vide short order dated 26-03-2021, was dismissed and the order dated 29-12-2020 which has been impugned by the applicant, was maintained. These are the reasons for the same.

JUDGE