

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

Cr. Misc. Application No.S-564 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

Mr. Manzoor Ahmed Panhwar, Advocate alongwith the applicant.

Miss Safa Hisbani, A.P.G. for the State alongwith DSP Nandlal, Inspector Zafar Hussain (Focal Person Badin), Inspector Muhammad Ali Zaur, SIP Hadi Bux, SIP Irshad Ali Shahani, ASI Qadir Bux Sahito, HC Karim Bux Nizamani and ASI Bashir Ahmed of P.S Tando Muhammad Khan.

Mr. Wazir Hussain Khoso, Advocate for respondent No.9.

Date of hearing: 23.08.2021  
Date of order: 17.09.2021

**ORDER**

**RASHIDA ASAD, J.** Through the instant Criminal Miscellaneous Application, the order dated 16.10.2020, passed by learned 1<sup>st</sup> Additional Sessions Judge/MCTC, Badin, in his capacity as Ex-Officio Justice of Peace, is impugned whereby an application under section 22-A (6) (i) Cr.P.C., filed by the applicant hereinabove, Allah Bachayo, for registration of FIR against the proposed accused, named in the title hereof, was partly dismissed and as such para 15 of the impugned order sought to be set aside. To understand the controversy and relief sought in the instant application, it would be appropriate to refer and reproduce said para 15 with reference to context depicted in para 14 of the order and, therefore, para 14 & 15 are reproduced 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 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 (5) 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 Tando M.K. so request of registration of FIR beyond the territorial jurisdiction would be against the spirits of law and the same is declined."*

2. Brief facts enunciated in the application under section 22-A (6) (i) Cr.P.C., filed by the applicant before the court below were that in the course of revengeful (needless to dilate upon) act, the applicant's son namely Madad Ali @ Madu, received fatal injuries at the hands of proposed accused No. 1 to 5, namely (1) Mumtaz S/o Siddique Jokhio (2) Noor Ahmed S/o Muhammad Malook Jokhio (3) Shakeel Ahmed S/o Khan Muhammad Jokhio (4) Nisar S/o Manzoor Jokhio and (5) Muhammad Hassan alias Baboo S/o Gul Hassan Jokhio, which culminated into cognizable offence committed on 23.09.2020 within the jurisdiction of P.S, Matli, District Badin, as the first episode. The, alleged, continuing second episode of the cognizable offence was allegedly committed within jurisdiction of P.S Tando Muhammad Khan by proposed accused No. 6 to 12, who happened to be Police officials posted at various respective positions of District Tando Muhammad Khan.

3. The applicant is aggrieved of para 15 of the impugned order wherein on the point of territorial jurisdiction of the Police Station and of the Court as well, the Ex-Officio Justice of Peace declined direction to register or incorporate the second part of allegations of committing cognizable offence by proposed accused No. 6 to 12.

4. Learned counsel for the applicant contended with vehemence that the **para-15** of the order impugned before this court is bad, illegal and passed without application of judicial mind inasmuch as the learned lower court wrongly held that it was ceased off the jurisdiction to issue any direction with regard to second episode of cognizable offence committed in continuance, with common intension. To scribe his submissions, the learned counsel for the applicant placed reliance on case law reported as (i) **PLD 2018 SC 595** (ii) **PLD 1997 Kar 119** (iii) **2020 SCMR 1200**.

5. On the other hand, learned A.P.G appearing on behalf of the State and learned Counsel for respondent No. 9, *inter alia*, contended that the proposed accused persons are innocent and applicant is falsely trying to implicate them in the criminal case out of sheer mala fide; that the learned Ex-Officio Justice of Peace rightly dismissed the application for registration of FIR against the proposed accused Nos.6 to 12 on the legal premise. They lastly contended that para-15 of the impugned order dated 16.10.2020 does not require interference of this Court. Reliance is placed on case law **2019 MLD 1192**.

6. Heard arguments and perused the record with the assistance of learned counsels for the respective parties. From perusal of the impugned order, it appears that the Justice of Peace has not shown any cavil to legal proposition that in case of reporting of alleged cognizable offence, the S.H.O, Police Station of the area, is bound to register FIR and, as such, a direction for registration of FIR against proposed accused No. 1 to 5 was issued to S.H.O Police Station Matli, District Badin. However, the second episode of the alleged continued offence committed within the territorial jurisdiction of District Tando Muhammad Khan was declined vide para 15 being ceased off the jurisdiction.

7. Record also reveals that direction for registration of FIR contained in para 14 of the order was sought to be set-aside through Cr. Misc. Application No.S-565/20, by invoking jurisdiction of this Court, but the same was dismissed by order dated 20.10.2020. On query from the state counsel, this court was informed that till date no FIR is registered with respect to the alleged offence for which direction was issued vide para 14 of the order dated 16.10.2020. It is observed with serious concern that this is an act of sheer and flagrant disobedience of order of this Court and high handedness of concerned SHO which emanated to giving a favour to the proposed accused No. 1 to 5, in respect of cognizable offence for which a departmental action is expected by the SSP Badin against the delinquent Police Officer posted as SHO PS Matli at the relevant time of passing of order and dismissal of Cr. Misc Application filed by proposed accused No. 1 to 5.

8. There is no cavil to the settled law that if the complaint of a cognizable offence is made to the officer incharge of police station, under section 154 Cr.P.C, he is bound to register an FIR of the alleged offence and the I.O upon conclusion of the investigation shall submit appropriate report before the concerned Magistrate. The point or preposition before me is that at which Police Station, the FIR of the offences committed in continuation within local limits of two or more Police Stations, can or shall be registered. Needless to dilate upon that under section 561-A, Cr.P.C, nothing shall be deemed to limit or affect the inherent powers of this Court to make such order as may be necessary to secure the ends of justice or to give effect to any order made under Cr.P.C. Furthermore, in the peculiar situation involved in this matter for the offences, allegedly committed, consisting several acts in continuation in the local area of two different Police Stations of two different Districts, section 185 Cr.P.C, also confers jurisdiction to the High Court for deciding which of the two or more subordinate courts should inquire into or try any offence.

9. Section 182 Cr.P.C, is an enabling provision which suitably deals with the situation involved in this matter and for convenience the same is reproduced hereunder:-

*“182. Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.--When it is uncertain in which of several local areas an offence was committed, or*

*where an offence is committed partly in one local area and partly in another, or*

*where an offence is a continuing one, and continues to be committed in more local areas than one, or*

*where it consists of several acts done in different local areas,*

*it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”*

10. The complex and cognitive reading of above provision and jurisdiction vested or conferred upon this Court under section 185 and 561-A, Cr.P.C, nothing prevents to this Court to give appropriate direction or to make an order for registration of FIR at any of the two Police Stations where the alleged continued offence consisting of several acts was committed.

11. In view of the above, the instant criminal miscellaneous application is allowed and, as a result thereof, the impugned order dated 16.10.2020 only to the extent of **para-15** of the same is set aside.

12. Accordingly, SHO Police Station Matli is directed to record statement of the complainant/applicant under section 154 Cr.P.C including but not limited to the allegations in respect of continuing acts committed within the local areas of Police Station Matli and District Tando Muhammad Khan as well and register FIR against all nominated / proposed accused Nos.1 to 12. DIGP Hyderabad is directed to depute a competent, upright and honest Investigation Officer to ensure fair and transparent investigation without any influence from any quarter with further direction to use all modern, scientific and forensic method and

techniques for comprehensive investigation for reaching the truth of allegations of the complainant.

13. Before parting with this order, it seems appropriate to mention that in case the investigation ensued that false FIR was registered the law will take its recourse.

Office is directed to send a copy of the order to DIGP Hyderabad for compliance of directions contained at para *ibid* and to SSP Badin for compliance of direction contained at para 7 under intimation to this Court.

JUDGE