

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD

Criminal Miscellaneous Application No.S-727 of 2021

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|-------------|--------------------------------------|
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1. For orders on office objection.
2. For hearing of main case.

11.04.2022

Syed Zeeshan Hyder Rizvi, Advocate for the applicant.
M/s. Nasrullah A. Khaskheli and Mumtaz Ahmed Lashari Advocates
for the respondents No.1 and 2 and 6.
Mr. Muhammad Noonari, Deputy Prosecutor General, Sindh.

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It is alleged by the applicant that her son Nizamuddin entered into love marriage with Mst. Noushad which annoyed her parents and they by holding Jirga abducted both of them, therefore, the applicant by making an application under section 22-A & B Cr.P.C sought for direction against the police to record her F.I.R for the above said incident, it was dismissed by learned IInd Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad vide order dated 26.10.2021 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 Nizamuddin has not yet been recovered, the allegation leveled by the applicant is constituting a cognizable offence, therefore, learned Ex-Officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order, such order being illegal is liable to be set-aside with direction to police to record F.I.R of the applicant.

Learned A.A.G for the State and learned counsel for the proposed accused No. 1, 2 and 6 have sought for dismissal of instant criminal

miscellaneous application by contending that no incident as alleged by the applicant has taken place as is evident of the affidavit which is filed by Mst. Noshad one of the alleged abductee before this Court.

In rebuttal to above, it is contended by learned counsel for the applicant that the affidavit of Mst. Noshad is managed by the proposed accused to save themselves from legal consequences.

Heard arguments and perused the record.

No doubt Mst. Noshad by filing her affidavit before this Court has denied the occurrence of the incident but there could be no denial to the fact that the son of the applicant Nizamuddin allegedly having been abducted by the proposed accused is still missing. The allegation of the abduction of a person being serious in nature could not be lost sight of. It is requiring probe and probe could only be made when formal F.I.R of the incident is recorded by the police. In these circumstances, the impugned order is set-aside with direction to S.H.O P.S. Tando Jam Hyderabad to record statement of the applicant for purpose of F.I.R for the above said incident and then to proceed with the same in accordance with law.

Instant criminal miscellaneous application is disposed of accordingly.

JUDGE