

ORDER SHEET  
**HIGH COURT OF SINDH CIRCUIT COURT,  
HYDERABAD**

Criminal Miscellaneous Application No.S-227 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>15.04.2022</u>	For orders on M.A No.3493/2022

Mr. Munawar Ali Mahesar, advocate for applicant.

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Urgency is granted.

By making allegation of mischief, theft of trees and his dispossession from the plot, the applicant by way of an application filed under section 22-A 6(i) Cr.P.C sought for direction against the police to record his F.I.R, it was dismissed by learned Sessions Judge/Ex-Officio Justice of Peace Tando Allahyar, vide order dated 30.03.2022, which is impugned by the applicant before this Court by preferring the instant criminal miscellaneous application under section 561-A Cr.P.C.

It is contended by learned counsel for the applicant that the cognizable offence has taken place, therefore, learned Ex-Officio Justice of Peace ought not to have been dismissed the application of the applicant.

Heard arguments and perused the record.

The dispute between the applicant and the proposed accused is over possession of the plot, which the applicant apparently is intending to get resolved by involving the proposed accused in a false case. In these circumstances, learned Ex-Officio Justice of Peace was right to dismiss the application of the applicant by way of impugned order which is not calling for interference by this Court by way of instant criminal miscellaneous application.

In case of *Rai Ashraf and others vs Muhammad Saleem Bhatti and others* (PLD 2010 SC-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 miscellaneous application fails and it is dismissed in *limine*.

JUDGE

Muhammad Danish