

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

**Const. Petition No. D- 3921 of 2016**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For katcha peshi.
2. For hearing of CMA 10578-16.

**20-09-2016**

M/s Ali Gul Abbasi and Abdul Naeem Pirzada advocate for petitioner.  
Mr. Ali Raza Baloch advocate for respondent No.2.  
Mr. Saleem Akhtar, Additional P.G. for the State.  
Mr. Noor Hassan Malik, Assistant A.G.

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Through instant constitutional petition, petitioner Manzoor Hussain Shaikh has called in question order dated 9.9.2016, passed by learned 2<sup>nd</sup> Additional Sessions Judge/ex-Officio Justice of Peace, Sukkur in Crl. Misc. Application No. 686 of 2016, whereby directions were issued to S HO, P.S.Abad for registration of FIR.

Notice was issued to respondents, Additional P.G as well as Additional A.G.

Learned advocate for petitioner contended that there was dispute between petitioner and Allahdino, respondent No.2 over a piece of land. Sale agreement was executed between the parties. Respondent No.2/applicant Allahdino with mala fide reasons by suppressing this fact approached learned ex-Officio Justice of Peace for seeking directions for registration of FIR. In fact, no offence was committed and it was civil transaction between the parties. In support of his contentions, he relied upon judgment passed by this court in case of **Abdul Salam v. SHO P.S. Ratodero (2011 M L D 540)**.

Mr. Ali Raza Baloch advocate appearing on behalf of respondent No.2 argued that appropriate directions have been issued by ex-Officio Justice of Peace for registration of FIR as SHO had refused to register an FIR in a cognizable offence.

Learned Additional P.G argued that perhaps Iqarnama/agreement was not produced before ex-Officio Justice of Peace and he has issued directions for registration of FIR in mechanical manner.

From perusal of order dated 9.9.2016, passed by learned 2<sup>nd</sup> Additional Sessions Judge/ex-Officio Justice of Peace, Sukkur, it appears that directions have been issued to SHO, P.S.Abad for registration of FIR. Relevant portion of order is reproduced as under:

“I have given due consideration to the material available on record so far. It has not been denied that there had been an agreement between the parties for sale of an immovable property and issuance of cheque has also not been denied. The only defence of proposed accused as taken is that the applicant has already been paid the amount, a fact the applicant has vehemently denied. This can be probed while investigating the matter. Such defence would not preclude this forum from ordering registration of the FIR. Petition is therefore allowed with direction to respondent No.1 to register a criminal case against the proposed accused. Let a copy of petition and this order be sent to respondent No.1 at the expenses of applicant, which shall be treated as statement of the petitioner and to register a criminal case against proposed accused”.

Section 154 CrPC provides that any information relating to the commission of a cognizable offence if given in writing or orally in any manner to an Officer Incharge of a Police Station shall be reduced in writing by him, shall be signed by the informer and substance thereof be entered in a relevant book. In case of **Muhammad Bashir v. SHO Oraka Cantt and others ( P L D 2007 Supreme Court 539)**, Hon’ble Supreme Court has held that no authority was vested with an Officer Incharge of a Police Station or with anyone else to refuse

to record an FIR, where the information conveyed, disclosed the commission of a cognizable offence. It is further held that no authority vested with an Officer Incharge of a Police Station or with anyone else to hold any inquiry into the correctness or otherwise of the information which was conveyed to the SHO for the purposes of recording of an FIR.

We have found that learned 2<sup>nd</sup> Additional Sessions Judge/ex-Officio Justice of Peace, Sukkur has acted strictly in accordance with law. No illegality has been found in the impugned order. Plea raised by learned counsel for petitioner regarding Iqrarnama/agreement shall be considered by I.O. during investigation in accordance with law. There is no substance in the instant petition, same is dismissed. SHO, P.S, Abad is directed to record statement of complainant in case cognizable offence is made out. Let copy of order be sent to SSP, Sukkur for compliance.

JUDGE

JUDGE