

Order Sheet
IN THE HIGH COURT OF SINDH,
 BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 544 of 2021

Date

Order with Signature of Hon'ble Judge

Priority case

1. For orders on office objection at flag 'A'
2. For hearing of main case
3. For hearing of MA No.4272/2021 (S/A)

06.09.2021

Applicant Muhammad Sadiq present in person
 Mr. Muhammad Ibrahim Gambhir Advocate for private respondent
 Mr. Aftab Ahmed Shar, Additional PG for State

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AMJAD ALI SAHITO, J:- Through instant Criminal Miscellaneous Application, the applicant / proposed accused has impugned the order dated 29.06.2021 passed by learned Additional Sessions Judge-II / Ex-Officio Justice of Peace, Khairpur, whereby the application filed by the private respondent under Sections 22-A and 22-B Cr.P.C, was allowed.

2. Applicant Muhammad Sadiq Bozdar present in person, requests for date on the ground that his counsel is out of station. His request is turned-down. Perusal of record reflects that earlier a Criminal Miscellaneous Application No.S- 443/2021 was filed by the applicant Muhammad Sadiq, but the same was dismissed for non-prosecution due to non-appearance of the applicant and his counsel vide order dated 16.08.2021. Once again the counsel for the applicant is absent, whereas, the applicant who is present in person argued the matter by submitting the matter is purely of civil nature, whereas, the private respondents is attempting to convert it into criminal; that he has not committed the offence, as alleged by the private respondents. He lastly prayed that the impugned order dated 29.06.2021 is liable to be set-aside.

3. It is contended by learned counsel for the private respondent that the impugned order is a speaking one, as the applicant/proposed accused has committed a criminal

offence, therefore, he is liable to be prosecuted under the law. He lastly prayed that the instant Criminal Miscellaneous Application may be dismissed.

4. Learned Additional PG appearing for the State did not support the impugned order and prayed for setting-aside the same by contending that the report was called from the concerned SHO, the report reveals that the applicant and private respondent are related to each other and there is matrimonial dispute between the parties, therefore, in existence of the family dispute, the version of the private respondent cannot be believed as truthful.

5. I have heard the applicant / proposed accused Muhammad Sadiq Bozdar in person, learned counsel for the private respondent and learned Additional PG for the State and perused the record. It is an admitted position that the applicant /proposed accused and the private respondent are related to each other. The sister of the private respondent namely Mst. Badshahzadi was married to the applicant/proposed accused. There is dispute between the parties over matrimonial affairs, therefore, the private respondent intends to get register a false criminal case against the applicant / proposed accused just to develop undue pressure upon him. In the circumstances, the version of the private respondent cannot be believed is truthful and confidence inspiring. Consequently, the instant criminal miscellaneous application is allowed and the impugned order dated 29.06.2021 passed by learned Additional Sessions Judge-II/ Ex-Officio Justice of Peace, Khairpur is set-aside. However, the private respondent Muhammad Lohar is at liberty to file direct complaint of the incident before the competent Court of law, having jurisdiction, if so advised.

Judge