

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

Cr. Misc. Appln. No. S – 274 of 2020

Date

Order with Signature of Hon'ble Judge

For hearing of main case

(Process issued)

13.09.2021

Mr. Mushtaque Ahmed Shahani Advocate for the applicant/complainant
Haji Shamsuddin Rajper Advocate for the proposed accused
Mr. Aftab Ahmed Shar, Additional PG for State

ORDER

AMJAD ALI SAHITO, J- Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 08.06.2020 passed by learned Additional Sessions Judge-V / Ex-Officio Justice of Peace, Sukkur, whereby the application under Section 22-A(6)(i) and 22-B Cr.P.C filed by the applicant was dismissed.

2. Pursuant to notice issued against the proposed accused, the police has inadvertently taken bond from two persons namely Junaid Hussain and Naeem Ahmed, who are real brothers of proposed accused Sumair Ali, whereas, Syed Sardar Ali Shah Jillani Advocate put his appearance and filed vakalatnama and statement, stating therein that the proposed accused No.1 Sumair Ali has already been disowned by his father Nizam Ali Burdi and such notice for information of the general public was published in a Newspaper daily Khabrain dated 17.02.2020 for misdeeds of his son Sumair Ali. Accordingly, the persons namely Junaid Hussain and Naeem, being brothers of proposed accused No.1 Sumair Ali cannot be held responsible for the misdeeds of their brother. Accordingly, their appearance in the instant matter is hereby discharged.

3. It is contended by learned counsel for the applicant/complainant that the proposed accused have committed a cognizable offence, therefore, they are liable to be prosecuted under the law; that the learned Ex-Officio Justice of Peace has passed the impugned order in a hasty manner without considering the material placed on

record; that there was business transaction between the son of the applicant namely Gul Muhammad and the proposed accused in respect of sale and purchase of the vehicles; that the proposed accused on 20.03.2020 at about 1:00 pm the proposed accused issued threats to him and forcible recovery of the amount; that the proposed accused again on 02.04.2020 at 3:20 pm went at the otaq of applicant and snatched cash of Rs.10000.00 from him, when all of a sudden there came son of the applicant namely Ali Haider on Mercedes car, and all the proposed accused tried to kidnap him but fortunately he was saved as the car of the son of the applicant did not start. He lastly prayed that the impugned order may be set-aside and directions may be given to SHO Police Station Abad Sukkur for recording the statement of the applicant as per his verbatim.

4. Learned counsel appearing for the proposed accused and Additional PG appearing for the State prayed for dismissal of instant Criminal Miscellaneous Application by contending that there is brawl between the applicant and the proposed accused over the sale and purchase of vehicle, therefore, the applicant due to some malevolence intends to involve the proposed accused persons in a criminal case; that from the facts as asserted in the memo of Criminal Miscellaneous Application, no offence is made-out, hence the impugned order is well-reasoned and does not call for any interference by this Court

5. I have heard the learned counsel for the applicant, learned counsel for the proposed accused as well as learned Additional PG for the State and perused the record. It appears from the record that there is dispute between the applicant and the proposed accused over the money matter, particularly the interest amount (*Sood*) in respect of sale and purchase of vehicle, otherwise no such offence has taken place as alleged by the applicant. Further in the memo of instant criminal miscellaneous application, in *para-2* it is written that the proposed accused being involved in the business of interest (*Sood*) in lieu of outstanding amount by investing the huge amount in the said business for getting more and more benefit and they always show golden dream and they always use the innocent boys in the said criminal act by enticing

them, in which the son of the applicant namely Gul Muhammad had also indulged in the business of interest (*Sood*). Apparently, there is dispute between the parties over the amount of investment, which is purely of civil nature, hence such remedy is available with the applicant by filing civil Suit. The applicant just to covert the civil litigation into a criminal, therefore, he has filed the instant application seeking registration of a false criminal case. The learned Ex-Officio Justice of Peace has committed no illegality or irregularity while passing the impugned order dated 08.06.2020, which does not call for any interference by this Court. Consequently, the instant Criminal Miscellaneous Application is dismissed.

Judge

ARBROHI