## ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

## CR. MISC. APPLICATIONS NO.433 TO 438 OF 2019

Date Order with signature of Judge

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- 1. For order on exemption application.
- 2. For hearing of main case.

## 25.02.2022

Mr. Tariq Mehmood advocate for applicants.

Mr. Abdul Latif Shaikh advocate for respondent No.7.

Mr. Zahoor Shah, Additional Prosecutor General Sindh.

## ORDER

Through present Criminal Miscellaneous Applications, applicants seek lodgment of FIRs with regard to offence allegedly happened on 14.06.2019 at 2200 hours, whereas it is matter of record that with regard to same date, time and place one Muhammad Yousuf lodged FIR No.163/2019 under section 506-B/427/380/34 at PS Kalakot which speaks that: "complainant Muhammad Yousuf stated that he had been residing at Flat No.1, Fateh Khan Manzil, Lyari for last 70 years as a tenant, the premises was obtained by his father from Fateh Khan; that a few days ago it came to his knowledge that Taj Muhammad son of Fateh Khan has sold out that building to one Abdul Rehman; that on 14.06.2019 at 10:00 pm Abdul Rehman alongwith 10 persons came at that building and started demolishing the shops and flats, meanwhile complainant was informed by area people on phone that flats and shops of complainant and other people are being demolished, that in said building flats of (1) Ghulam Haider (2) Abdul Sattar (3) Abdul Aziz (4) Muhammad Rashid (5) Muhammad Aslam (6) Faheem (7) Sohail (8) Muhammad Ibrahim (9) Muhammad Iqbal (10) Syed Asif Ali Shah and that of complainant are situated

where they are residing and shops of Abdul Raheem Muhammad Rafiq, Sheikh Ejaz Ahmed are also situated there, that complainant immediately rushed to the site and found building was being demolished by shovel, complainant and other residents resisted to such demolition but 10 armed persons on the show of weapon threatened the complainant side to fire upon them directly if complainant side tried to resist, hence they approached the police station and lodged FIR".

- 2. Admittedly all the applicants are shown as victims/witnesses, however it has come on record that the FIR was investigated and case was disposed of under "C" class, that order has been questioned before this court which proceedings are pending for adjudication. Accordingly the trial court dismissed those criminal miscellaneous applications as infructuous on account that such offence was already reported at the police station and there was no need to lodge separate FIR. It is settled principle of law that with regard to same offence if there is an FIR any witness or victim shall be joined and no separate FIR is required. In present case applicants are also witnesses in the FIR.
- 3. With regard to plea that applicants tried to record their statement before the I/O but he failed to record their statements. It would be pertinent to mention that investigating officer was under legal obligation to record the statement of witnesses (victims) hence applicants are allowed to join the proceedings which are pending before this court wherein Order passed under section 173 Cr.P.C. is in question, or they would be at liberty to file application before

concerned DIGP for fresh investigation. These criminal miscellaneous applications are dismissed.

Office shall place copy of this order in connected cases.

JUDGE

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