

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Miscellaneous Application No.S-193 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on MA-2983/2022. 2. For orders on office objection 3. For orders on MA-2984/2022 4. For hearing of main case.
<u>01.04.2022</u>	

Mr. Aijaz Ali Lakho, advocate for applicant.

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1. Urgency granted.

2to4. By making allegation of assault with intention to occupy the landed property the applicant by filing an application u/s: 22-A&B Cr.P.C sought for directions against the police for recording his F.IR, it was dismissed by learned Sessions Judge/Ex-Officio Justice of Peace, Mipurkhas vide order dated 16.03.2022, which is impugned by the applicant before this Court by way of instant criminal miscellaneous application u/s: 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 dismissed the application of the applicant by way of impugned order, such order being illegal is liable to be set-aside.

Heard arguments and perused the record.

As per impugned order the parties are already disputed over landed property and such dispute between them is pending adjudication before Civil Court and Anti-Encroachment Tribunal having jurisdiction. The intention with the applicant obviously was to involve the proposed accused in false case. In that situation, learned Ex-Officio Justice of Peace

was right to have dismissed the application of the applicant by way of impugned order which is not calling for any interference by this Court.

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* together with listed application.

JUDGE

Muhammad Danish*