

**IN THE HIGH COURT OF SINDH AT KARACHI**

Present: Ahmed Ali M. Shaikh, CJ and Omar Sial, J

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**C.P. No. D – 2210 OF 2018**

**Muhammad Arshad** ..... **Petitioner**

**Versus**

**Learned 1<sup>st</sup> Additional Sessions Judge,  
Malir & Others** ..... **Respondents**

Ms. Fouzia Aslam Arain, Advocate for petitioner.  
Barrister Mustafa Mahesar, Addl.A.G./ Mr. Zafar A. Khan, APG a/w Muhammad Habib Khan, AIGP Legal, Raza Mian DSP Legal, Inspector Muhammad Nawaz, Malir City P.S., SIP Muneer Ahmed, Malir City P.S., SIP Ghulam Mustafa, Khokharapar P.S. and Inspector Muhammad Ali Marwat, Khokharapar P.S.  
Mr. Samiullah Soomro, advocate for respondent No.3.

**ORDER**

Through these proceedings the petitioner has impugned an order dated 8.11.2017 passed by the learned 1<sup>st</sup> Additional Sessions Judge, Malir, Karachi in his capacity as Ex-Officio Justice of Peace. In terms of the said order, the learned Justice of Peace had directed that an F.I.R be registered against the petitioner Mohammad Arshad.

2. We have heard the learned counsel for the petitioner as well as the learned counsel for the respondent no. 3. We have also heard the learned Addl.A.G. and the learned A.P.G. Our observations are as follows.

3. During the course of hearing the A.I.G (Legal) was directed to enquire into the matter and present his report as to whether the petitioner has been lawfully collecting the fee on livestock as was claimed by the petitioner. The A.I.G reported that neither of the two parties was authorized by the Government to collect the fee on the livestock at the Bakra Piri and that the same was being done unlawfully. He further stated that the parties had an ongoing dispute over the collection of fees, with each party filing cases on the other. The learned A.A.G. also confirmed this position.

4. In view of the above, the I.G. Sindh is directed to ensure that no unauthorized collection of any fee on the Bakra Piri is permitted to continue and all such arrangements which tantamount to illegally depriving the Government of its revenue

and create an unlawful burden on the people at large are put to an immediate end. A copy of this order should be forwarded to the I.G Sindh for compliance.

5. As regards the impugned order, we observe that it would have been appropriate if instead of directing the police to compulsorily register an F.I.R. against the petitioner, the police should have been directed to record the statement of the respondent under section 154 Cr.P.C. and if, based on the evidence available, the police was of the view that a cognizable offence had been committed by the petitioner only then should the F.I.R. have been registered. We therefore set aside the order of the learned 1<sup>st</sup> Additional Sessions Judge, Malir, Karachi on this single score alone.

6. The petition stands disposed of in the above terms.

CHIEF JUSTICE

JUDGE