

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

Criminal Miscellaneous Application No.S-316 & 317 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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20.06.2023

Mr. Farhad Ali Abro advocate for applicant along with applicant.

Mr. G.H. Laghari advocate for private respondent(s).

Ms. Safa Hisbani, Assistant Prosecutor General along with Inspector Asghar Alam Halepoto, ASI Nazar Muhammad and ASI Hadi Bux, respondents.

MUHAMMAD IQBAL KALHORO, J.- Applicant filed two separate applications u/s 22-A & B CrPC seeking directions for registration of FIR against respondent No.3 Mukesh Kumar for allegedly committing robbery from his house and occupying the same with the aid of police and also issuing 03 cheques of different amounts which on presentation in the bank were dishonored. It appears that learned Ex-Officio Justice of Peace/2nd Additional Sessions Judge Badin referred the matter to the in charge Complaint Redressal Cell SSP Office Badin who after due inquiry reported back highlighting existence of civil dispute between the parties on account of some transactions, and that applicant had already received amounts of cheques etc. In view of such report, both the applications have been dismissed vide impugned orders.

2. I have heard the parties. Learned counsel for applicant has submitted that the orders passed by the learned Ex-Officio Justice of Peace are bad in law; respondent No.3 has committed the alleged offence and applicant is in possession of the cheques dishonored by the bank, hence, SHO PS S.F. Rahoo be directed to register FIR. The affidavit of applicant in favour of proposed accused is a fabricated document.

3. On the contrary, learned counsel for proposed accused and Assistant PG have supported the impugned orders.

4. The reasons given by the Ex-Officio Justice of Peace/2nd Additional Sessions Judge Badin appear to be cogent and reasonable. In the enquiry by the police, it has been revealed that in the year 2018 on account of some transactions on the land/plot

proposed accused had given cheques to applicant which he then pretended to have lost and asked the proposed accused to pay him the amount which accordingly he paid to him and to that connection applicant executed an affidavit reiterating fact of losing cheques and acknowledging the receipt of amount against which. After which, he also executed the sale deed of the land / plot in favour of proposed accused. But when some dispute arose between them, he used the same cheques in 2023 issued to him in 2018 and filed application for registration of FIR. No case in view of such report reiterated by the Ex-Officio Justice of Peace/2nd Additional Sessions Judge Badin is made out for indulgence. The argument of learned counsel that the affidavit and other documents admitting losing of cheques and receiving the amount are false, fabricated and manipulated is not borne out of any record prima facie. Therefore, the applications in hand are dismissed. The applicant would, however, be at liberty to avail his remedy in accordance with law.

JUDGE

Ali Haider