

**IN THE HIGH COURT OF SINDHB, KARACHI**

Crl. Misc. Application No. 379 of 2023

<b>DATE OF HEARING</b>	<b>ORDER WITH SIGNATURE OF JUDGE.</b>
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1. For orders on M.A No. 6832/2023 (Urgency Application)
2. For order on M.A. No. 6833/2023 (*Exemption Application*)
4. For hearing of main case.
5. For order on M.A. No. 6834/2023 (*Stay Application*)

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**12.06.2023**

Mr. Muhammad Ishaq, Advocate for the applicant.

**ORDER**

**ZAFAR AHMED RAJPUT, J.-** The respondent No.4 herein filed Crl. Misc. Application No. 1446 of 2023, under section 22-A & B, Cr.P.C. (*Re: Fayyaz Nagori vs. Station House Officer of P.S. Darakhsan, Karachi & another*) before the learned Sessions Judge/Ex-Officio Justice of Peace, Karachi-South seeking directions to the respondent No.2 (*S.H.O, P.S. Darakhsan, Karachi*) to register an F.I.R. under section 489-F & 34, P.P.C. against the proposed accused (*Applicant and respondent No. 5*) *inter alia* for committing fraud and dishonestly issuing six cheques amounting to Rupees Fifteen Millions and to prosecute them in accordance with law. It was case of the respondent No.4 that the respondent No.2 refused to lodge his F.I.R. The said Crl. Misc. Application was heard and allowed by the learned Sessions Judge/Ex-Officio Justice of Peace, Karachi-South vide order, dated **03.06.2023**, directing to respondent No.2 to record the statement of respondent No.4 in terms of Section 154, Cr.P.C. and if from such statement a cognizable offence is made out, he has to lodge the F.I.R. of the respondent No.4. The I.O was; however, directed not to arrest the accused nominated in the F.I.R. if concrete evidence is not available with him. It is against said order the applicant, who is one of two proposed accused persons, has maintained instant Cr. Misc. Application under section 561-A, Cr. P.C.

2. Learned counsel for the applicant contends that the impugned order being against the law and equity is liable to be set aside; that neither the applicant entered into any sale transaction with the respondent No.4 in respect of any immovable property nor he issued any receipt of payment or any cheque; that the respondent No.4 in fact intends to convert a civil nature dispute into a criminal case for ulterior motives, which fact the learned Ex-Officio Justice of Peace failed to consider; hence, the impugned order being unsustainable in law is liable to be set aside.

3. Heard, record perused.

4. There can be no cavil to the proposition that once the allegation regarding commission of a cognizable offence is communicated to police, the police is duty bound to register a case. In the case of Sana Ullah versus S.H.O, Police Station, Civil Line Gujrat and 3 others(PLD 2003 Lahore 228) while interpreting Section 154, Cr.P.C, it was held that words used in Section 154, Cr.P.C “*every information relating to commission of a cognizable offence*” pertains only to the information so supplied and do not pertain to actual commission of the cognizable offence and that information supplied should be about an alleged commission of a cognizable offence irrespective of its truthfulness or otherwise and concerned police official has to satisfy himself only to the extent that the information is in respect of a cognizable offence. It was also held that at the time of first information report, accused persons named in the compliant have no right of hearing. It is, therefore, obvious that if there is an information regarding commission of a cognizable offence, the police officer concerned is under statutory obligation, without hearing the accused person, to enter it in the prescribed register.

5. It may be observed that every citizen has a right to get his complaint registered under Section 154, Cr.P.C. with local police when he makes out a

cognizable offence. Failure of the concerned police officer to register a complaint so made or his resorting to delaying tactics, amounts to failure to discharge statutory obligations, attracts provisions of Section 22-A(6) (i), Cr.P.C; therefore, an aggrieved person is well within his rights to approach the Justice of Peace under said provisions of law with a prayer for registration of the F.I.R., and if the Justice of Peace comes to the conclusion that a cognizable offence is apparent from the data available on the record, he can pass an order for registration of the F.I.R. As such, the Justice of Peace is saddled with the administrative duty to redress the grievances of the complainants aggrieved by refusal of police officer to register their reports. However, he is not authorized to assume the role of investigating agency or prosecution. Even minute examination of the case and fact-findings upon the application and report of police is not included in the function of the justice of Peace. It may also be observed that a safeguard against false complaint is provided under section 182, P.P.C. whereby a person giving false information to an officer in-charge of a police station can be prosecuted for an offence punishable under Section 182 or Section 211, P.P.C.

6. For the foregoing facts and reasons, there appears no illegality or irregularity in the impugned order requiring any interference of this Court under its inherent powers under Section 561-A, Cr.P.C. Hence, this Crl. Misc. Application is dismissed in *limine*, along with listed applications.

**JUDGE**

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