

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Misc. Application No.S-380 of 2023
(Major ® Adnan Kayani & others Vs. SHO PS Dad Leghari & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on office objections.
2. For hearing of main case.
3. For hearing of MA No. 3385/2023 (Stay)

07-12-2023.

Choudhry Shahid Hussain Rajput, advocate for the applicants.
 Mr. Sikandar Ali Junejo, advocate for the private respondent. Mr.
 Shafi Muhammad Mahar, Deputy P.G for the State.

1. Complied.
- 2 & 3. The applicants by making the instant Crl. Misc. Application have impugned order dated 30-06-2023, whereby learned Additional Sessions/ Ex-Officio Justice of Peace, Daharki, has directed the SHO PS Dad Laghari to record the statement of the private respondent for purpose of FIR.

It is contended by learned counsel for the applicants that the applicants are employees of the Mari Gas Company Limited and the private respondent is intending to involve them in a false case only to get a job against the land, which has already been sold by his father to Mari Gas Company Limited through registered sale deed and such aspect of the case has been lost sight of by learned Ex-Officio Justice of Peace while directing the SHO PS Dad Laghari to record statement of the private respondent for purpose of FIR; therefore, impugned order being illegal is liable to set aside.

Learned DPG for the State did not support the impugned order. However learned counsel for the private respondent by supporting the impugned order has sought for dismissal of the instant Crl. Misc.

Application by contending that the applicants have committed a cognizable offence by making fires at the private respondent with intention to commit his murder.

Heard arguments and perused the record.

The land which is claimed by the private respondent as per sale deed has already been sold by his father to Mari Gas Company Limited through registered sale deed. The firing allegedly made by the applicants at the private respondent with intention to commit his murder has proved to be ineffective one. The DSP Complaint Redressal Cell, Ghotki, in his report has denied the occurrence of incident. In these premises learned Ex-Officio Justice of Peace was not justified to have directed the SHO PS Dad Laghari to record statement of the private respondent for purpose of FIR by way of impugned order. It is set aside.

In case of *Rai Ashraf and others vs. Muhammad Saleem Bhatti and others* (PLD 2010 S.C 691), it has been held by 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."

The instant Crl. Misc. Application is disposed of accordingly.

Judge

