

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Criminal Miscellaneous Application No.555 of 2023

Date	Order with signature of Judge
------	-------------------------------

For order on MA No.14330/2023

**07.12.2023**

Applicant present in person  
Mr. Muntazir Mehdi, Additional PG alongwith SI Muhammad Nawaz,  
Additional SHO PS Sachal Karachi  
Shahzada Saleem Rizvi advocate for respondents No.1 and 2 alongwith  
respondent No.2

-----

The Applicant said Anis Haider had applied under sections 22-A & 22-B Cr. P.C. before the learned Additional Sessions Judge –VIII Malir Karachi and sought directions to SHO PS Sukhan, Karachi for registering FIR against respondents and his legal protection. Report whereof was called from concerned SHO. SHO PS Sukhan submitted his report with the narration that there was/is a family dispute between the applicant and private respondents. The learned Additional Sessions Judge VIII Malir Karachi after hearing the parties disposed of the application under sections 22-A & 22-B Cr. P.C. on the premise that there was a family dispute and directed the SHO to protect the applicant. The applicant being aggrieved by and dissatisfied with the aforesaid order has filed this Criminal Miscellaneous Application, which was dismissed on account of non-prosecution vide order dated 22.11.2023, now restoration application has been filed. The same is restored to its original position for the decision on merits.

I have heard the parties on the listed application and perused the record with their assistance.

In Matrimonial or family disputes, a preliminary inquiry must be conducted before the FIR is lodged to determine whether a cognizable offense has been committed while safeguarding the rights of the complainant and accused.

In the present matter applicant seeking registration of a case against her daughter-in-law and her family members for stealing his valuables articles. Police has denied such allegations, in such a situation F.I.R cannot be registered.

The applicant states that he wants the accused persons to be brought to book, I asked him if he has a remedy under section 200 Cr.P.C, and he states that the same is not possible through the medium of a private complaint. Such stance is erroneous and fallacious, for the reason that by provisions of Section 202(1), Cr.P.C. a Court in a private complaint can direct an inquiry or investigation to be made by any Justice of Peace or by

a Police Officer or by such other person as it thinks fit. If in a given case, the Court in a private complaint filed deems it appropriate can direct an investigation to be carried out in respect of the allegations made then the powers available during an investigation, enumerated in Part V, Chapter XIV of the Code of Criminal Procedure, 1898 read with section 4(1) (l) of the same Code, including the powers to arrest an accused person and to effect recovery from his/her possession or at his/her instance. Such powers of the Investigating Officer or the investigating person recognize no distinction between an investigation in a State case and an investigation in a complaint case.

The object of investigation under section 202 of the Code is to enable the Court to scrutinize the allegations to protect a person complained against from being summoned to face frivolous accusations. Section 202 of the Code is an enabling provision to empower the Court to hold an effective inquiry into the truthfulness or otherwise of the allegations leveled in the complaint to form an opinion on whether there exist sufficient grounds to proceed further or not. Therefore, inquiry/investigation under section 202 of the Code is not a futile exercise and is to be taken into consideration by the Court while deciding whether the process is to be issued or not.

The object and purpose of registration of a criminal case is to probe and find evidence and place all such material before a Court of competent jurisdiction and not to satisfy the complainant/aggrieved person and if any such material is provided by the investigating agency, that would help the Court for arriving at just conclusion.

In the present case, nothing has been pointed out that the impugned order shall prejudice the case of the applicant, if he approaches and files a Direct Complaint against the alleged excess of the private party; and, the Magistrate concerned shall take care of all the points raised by the applicant after hearing the parties.

In view of the facts and circumstances as discussed above, the impugned order is hereby maintained and the instant Criminal Miscellaneous Application of the applicant is disposed of along with the pending application(s) because of the discussion made hereinabove. However the Applicant is at liberty to approach the concerned Judicial Magistrate and file a Direct Complaint for redressal of his grievances if so advised, and if his cause still subsists and the same is required to be decided under the law if filed.

JUDGE