

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr.Misc. Application No.08 of 2022

Date

Order with signature of Judge

For hearing of case.

28.11.2023

Applicant is present in person.

Haifz Abdul Rehman, advocate for respondents No.1 to 3.

Ms. Nosheen Tajamul, advocate holds brief for Mr. Arshad Lodhi, advocate for respondent No.7

Mr. Abrar Khichi, Addl. P.G Sindh.

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Through this Criminal Miscellaneous Application under Section 561-A Cr. P.C, the applicant Sanwal Khan has assailed the vires of the order dated 26.10.2021 passed by the learned Additional VIIIth Additional Sessions Judge/Ex-Officio Justice of Peace Karachi East in Criminal Miscellaneous Miscellaneous Application No. 1324 of 2021 whereby direction to SHO concerned to record the statement of the applicant for registration of F.I.R against the private respondent was declined on the premise that certain FIRs are already pending adjudication on the subject issue and applicant wants to lodge further FIR against the respondents.

The applicant who is present in person has narrated his ordeal and extensively read the paragraph of the memo of criminal Miscellaneous Application and submitted that directions may be issued to the respondent/SHO to record his statement and investigation be conducted as well as the departmental inquiry against the police officials.

The aforesaid instance has been refuted by the learned counsel for the respondents on the plea that the impugned order is well reasoned and does not call for interference by this Court, as the litigation between the parties has already been pending before the competent of law and no further FIR on the same cause of action is required to be lodged.

I have given due consideration to the submission made and have carefully gone through the contents of the instant Criminal Miscellaneous Application as well as the application addressed to the SHO and Ex-Officio Justice of Peace Karachi East. It is settled law that even if there is no direction of the Court, the S.H.O. has no authority to refuse to record the statement of the complainant in the relevant register irrespective of its authenticity/correctness or falsity of such statement. In this context the

Supreme Court in the case of Muhammad Bashir vs. Station House Officer, Okara Cantt. and others (PLD 2007 Supreme Court 539) in para-25 and 26 have categorically held that S.H.O. has no authority to refuse to register FIR under any circumstances. He may refuse to investigate a case but he cannot refuse to record FIR.

The check against the lodging of false F.I.Rs was not the refusal to record such F.I.Rs, but the punishment of such informants under Section 182, P.P.C., etc. which should be, if enforced, a fair deterrent against misuse of the provisions of Section 154, Cr. P.C, however, it is made clear that there can be no second FIR in respect of the same cognizable offense or the same occurrence or incident in terms of law laid down by the Supreme Court in the case of Sughra Bibi vs. The State PLD 2018 Supreme Court 595.

Both parties after arguing at some length have agreed to the disposal of this Cr. Misc. Application on the premise that they will appear before the concerned SHO to record their statement and from the contents of the application/statements if the SHO finds that cognizable offense is made out then action shall be taken in terms of Section 154 Cr. P.C., however, if the statement of the applicant is found false the action in terms of Section 182 PPC shall be contemplated.

As a result, this Criminal Miscellaneous Application is hereby disposed of in the above terms.

JUDGE