

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
CrI. Misc. Application No.S-440 of 2022
(Muhammad Adil Ansari Vs. The State & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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For non-prosecution
Office objections not complied with.

30-01-2024.

Mr. Mehfooz Ahmed Awan, advocate for the applicant.
Mr. Muhammad Aslam Jatoi, Assistant Attorney General, Pakistan.
Mr. Ubedullah Malano, advocate for the respondent No.2.
Mr. Munir Ahmed Maitlo, Law Officer, SSGC/proposed accused.

It alleged by the applicant that the proposed accused being officials of the Sui Southern Gas Company have attempted to disconnect his Gas supply on account of his failure to pay them bribe and now are threatening him to be killed. On the basis of such allegation, the applicant by making an application u/s 22 A/B Cr.P.C sought for direction against the police to record his FIR, it was dismissed by learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Sukkur vide order dated 17-01-2022, which is impugned by the applicant before this Court by preferring the instant CrI. Misc. Application u/s 561-A Cr.P.C.

It is contended by learned counsel for the applicant that the cognizable offence has taken place, therefore, learned Ex-Officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order, which is liable to be set aside by this Court with direction to police to record FIR of the incident at his verbatim.

Learned counsels for the other side while supporting the impugned order have sought of dismissal of instant Crl. Misc. Application by contending that the applicant is intending to involve the proposed accused in a false FIR as they may not discharge their lawful duty against him as public servant.

Heard arguments and perused the record.

The applicant has been found involved for committing theft of gas and he is facing such trial before the Court having jurisdiction. In that situation the contention of learned counsel for the proposed accused that the applicant is intending to involve them in a false case as they may not discharge their lawful duty as public servant, could not be over looked, it smells of malafide. No illegality even otherwise is noticed in the impugned order, which may justify this Court to interfere with the same.

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."

In view of above, the instant Crl. Misc. Application fails and is dismissed of accordingly.

JUDGE.

Nasim/P.A

