

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
CrI. Misc. Application No.S-789 of 2023
(Syed Subhan Ali Shah Vs. The State & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on MA No. 6624/2023 (Ex./A).
2. For hearing of main case.

01-03-2024.

Mr. J.K Jarwar, advocate for the applicant.
Mr. Muhammad Yaseen, advocate for the proposed accused.
Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

1. Granted subject to all just legal exceptions.
2. It was alleged by the applicant that the proposed accused who are police officials kept him confined illegally and then let him go by snatching from him Rupees two lacs. On the basis of such allegation he by making an application u/s 22 A/B Cr.P.C sought for direction against SHO PS Halani to record his FIR for the said incident, it was dismissed by learned Ist Additional Sessions Judge/Ex-Officio Justice of Peace/ (MCTC), Naushahro Feroze vide order dated 25-10-2023, which is impugned by the applicant before this Court by way of an application u/s 561 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 contending so, he sought for setting aside of the impugned order with direction to SHO PS Halani to record the statement of the applicant for purpose of FIR, which is opposed by learned DPG for the State and learned counsel for the proposed accused by contending that the applicant is hardened criminal of the area and is intending to involve the proposed accused being police officials in a false case as they may not discharge their duty lawfully against him.

Heard arguments and perused the record.

Apparently, 17 cases have been found registered against the applicant, in that situation the contention of learned DPG for the State and learned counsel for the proposed accused that the applicant is intending to involve proposed accused being police officials in false case as they may not discharge their duty lawfully against him could not be over looked, which suggests malafide.

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.”

No illegality even otherwise is noticed in impugned order, which may justify this Court to interfere with the same by way of instant CrI. Misc. Application, it is dismissed accordingly.

Judge

