

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Revision Application No. S- 52 of 2022

(Muhammad Iqbal Malik Vs. Nazir Ahmed & others)

1. For Orders on office objection.

2. For hearing of main case.

ORDER.**05-03-2024.**

Mr. Ubedullah Ghoto, advocate for the applicant.

Mr. Akhtar Hussain Malik advocate for the private respondents (absent)

Mr. Shafi Muhammad Mahar DPG for the State.

1. Over ruled.

2. The facts in brief necessary for disposal of instant Criminal Revision Application are that the applicant has filed an complaint for prosecution of the private respondents for allegedly having committed an offence punishable u/s 3/4 of Illegal Dispossession Act, 2005, it was dismissed by learned Additional Sessions Judge/(MCTC) Ubauro vide order dated 01-06-2022, which is impugned by the applicant before this Court by making the instant Criminal Revision Application.

It is contended by learned counsel for the applicant that the prima-facie a case for cognizance for prosecution of the private respondent was made out, yet the complaint has been dismissed by learned trial Court without lawful justification by way of impugned order, which is liable to be set aside by this Court with direction to learned trial Court to take cognizance of the case and to proceed further with the same in accordance with law.

None has come forward to advance arguments on behalf of the private respondents, however learned DPG for the State by supporting the impugned order sought for dismissal of the instant Criminal Revision Application.

Heard arguments and perused the record.

In the instant matter, report furnished by Mukhtiarkar (Revenue) Ubauro prima-facie suggests that the subject land is owned by the applicant to the extent of its 50 paisa and it has occupied illegally by the private respondents a month before furnishing such report. If such report is taken into consideration then it prima-facie make out a case for its cognizance against the private respondents. Burden to make out a case for cognizance is light which cannot be equated with the burden to prove the case at trial. In these premises, the dismissal of the complaint of the applicant in summary manner by way of impugned order is not appearing to be justified; it is set aside with direction to learned trial Court to pass the same afresh after making further inquiry, if need be.

The instant Criminal Revision Application is disposed of accordingly.

Judge