

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Misc. Application No.27 of 2024
[Ahsan Ali vs. IInd ADJ, Thatta, Karachi]

Date	Order with signature of Judge
<u>FOR HEARING OF MAIN CASE.</u>	

12.01.2024

Mr. Abdul Basit Buriro, Advocate for the applicant.

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1. Granted.
 2. Granted subject to all just exceptions.
 3. Through this Cr. Misc. Application the Applicant assailed the order dated 02.12.2023, passed by learned 2nd Additional Sessions Judge / Ex-Officio Justice of Peace, Thatta, in Cr. Misc. Application No.1235/2023, whereby the Application under Section 22-A Cr.P.C. filed by the applicant was dismissed.

Briefly stated the case of the applicant is that his father being a policeman, posted at Mohsin House Thatta. On 17.07.2023, at 10.00 PM, he was contacted by a constable also posted at the said house who informed the applicant that his father has committed suicide by using his official weapon. The applicant alleges that his father was happy in his life and suicide from him cannot be expected, therefore, he wants an impartial inquiry into the matter.

Learned counsel for the applicant submits that the impugned order is not sustainable under the law as the applicant approached to Sessions Judge / Ex-Officio Justice of Peace, Thatta, for directions to the concerned police to record his statement under Section 154 Cr.P.C. He has submitted that the learned trial court while passing the impugned order has committed error and he has also failed to consider the fact and medical evidence available on the record. It is also argued that neither the concerned SHO PS Thatta started any investigation or inquiry nor the judicial magistrate concerned taken any legal action against the police and did not pass any order in respect of murder of father of the applicant. He has further argued that respondent No.1 [IInd ADJ, Thatta] has failed to apply judicial mind and erred in its findings. Lastly, he has argued that the impugned order is bad in law and is liable to be set aside.

Heard learned counsel for the applicant and perused the material available on the record.

From perusal of the record, it appears that while passing the impugned order learned IInd ADJ, Thatta, dismissed the applicant's application under Section 22-A Cr.P.C. relevant para of the order reads as follows :-

“Having discussed above, it seems that the applicant is not satisfied with the hush-hush proceedings conducted by the police during the time of death of his deceased father and through instant application he wants to open the door of investigation by an honest police officer regarding the death of his deceased father. There is inordinate delay of about 04 months in happening of incident and filing instant application in Court. Be that as it

may, the deceased was not only the father of applicant but was also a policeman. Accordingly, the instant application is dismissed. However, the SSP Thatta is directed to conduct inquiry personally regarding the death of deceased father of applicant by taking into account the statement of family members of deceased, the police officials available with the deceased on the day of death, surrounding circumstances etc. and if during inquiry, it turns out that the deceased has not committed suicide but was murdered then appropriate legal action maybe initiated against the culprits, if any strictly in accordance with law”.

Bare perusal of the impugned order shows that the learned IInd Additional Sessions Judge, Thatta, though dismissed the application of the applicant under Section 22-A Cr. P.C but at the same time, he has issued directions to the SSP Thatta to conduct an inquiry personally regarding the death of the deceased father of the applicant by taking into account the statement of family members of the deceased, the police officials available with the deceased on the day of death, surrounding circumstances etc. He has also ordered that if during the inquiry, it turns out that the deceased has not committed suicide but was murdered then appropriate legal action may be initiated against the culprits.

In the circumstances, I observe that the learned IInd ADJ, Thatta, has done his job very proficiently while issuing the directions to the official respondents. On the other hand, Learned counsel though argued at some length reiterating the contents of instant application, however, he has failed to justify his instance in the case and has also failed to point out any illegality and infirmity in the impugned order, which could warrant any interference by this Court. Hence, this Cr. Misc. Application is dismissed in limine with the directions to the official respondents to act strictly in accordance with the law and to ensure compliance of the order already passed by the learned IInd ADJ, Thatta, while passing the impugned order, in letter and spirit.

JUDGE