

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Misc. Appl. No.525 of 2022
(Asma Ashfaq v. SSP District East Karachi and others)

Date	Order with signature of Judge
------	-------------------------------

For hearing of main case

21.10.2024

Mr. Ghulam Rasool Korai, advocate for the applicant
Ms. Seema Zaidi, Additional Prosecutor General for the State
Mr. Aizaz Ahmed, advocate for the proposed accused

=====

By leveling an allegation of trespass with intention to commit some offence, the applicant by making an application u/s 22-A/B Cr.PC sought the direction against SHO PS Bahadurabad to record her FIR; it was dismissed by learned Xth-Additional Sessions Judge/ Ex-Officio Justice of Peace Karachi East vide order dated 16.08.2022, which the applicant has impugned before this Court by making the instant application u/s 561-A Cr. PC.

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 the impugned order, therefore, the same being illegal is to be examined by this Court.

Learned Additional Prosecutor General for the State and learned counsel for the proposed accused have sought dismissal of the instant Crl. Misc. Application by supporting the impugned order by contending that no incident as alleged by the applicant has taken place.

Heard arguments and perused the record.

The applicant and proposed accused are related inter se and disputed over the property. The civil litigation between them is going

on before the Civil Court having jurisdiction, which as per learned counsel for the proposed accused, the applicant is intending to satisfy by involving the proposed accused in criminal litigation. In these premises, learned Ex-Officio Justice of Peace was right to dismiss the application of the applicant by way of the impugned order, which is not found illegal to be interfered with by this Court.

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."

Consequent to the above discussion, the instant Crl. Misc. Application is dismissed accordingly.

J U D G E

Nadir*