

76

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.  
Cr. Misc. Appln. No.S-101 of 2017

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of case.
3. For hearing of M.A No. 869/2017.

28.8.2017.

**Mr. Asif Hussain M. Nawaz Chandio, advocate for the petitioners**

**Mr. Khadim Hussain Khoonharo, Addl. P.G.**

**Mr. Irfan Badar Abbasi, advocate for the respondent No.3.**

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Through this petition, the petitioners have impugned the order dated 08.5.2017, passed by the VI-Additional Sessions Judge, Larkana / Justice of Peace, whereby the respondent's application U/S 22-A & B Cr.P.C has been allowed by directing the concerned SHO to proceed further in accordance with law.

Learned counsel for the petitioners submits that there are vague allegations against the petitioners in the complaint, whereas the stance of applicant/respondent No.3 is contradictory in nature as on the one hand it has been stated that high tension wires were not being removed by the department and on the other, the petitioners have been implicated in their personal capacity / name without any specific allegation(s), therefore, the impugned order is bad in law. He further submits that if the high transmission lines were faulty, the petitioners in their private capacity are not responsible and it is only SEPCO and WAPDA against whom the cause of action lies. He has also relied upon the response of the police authorities submitted before the learned Justice of Peace and submits that the same supports the case of the petitioners. According to the learned counsel, the respondent No.3 has encroached upon the official land and is residing on his own beneath the high transmission lines and therefore, no case is made out. He finally submits that respondent No.3 has also filed a petition bearing C.P No. D-375 of 2017 wherein he is also claiming compensation for loss of life of his son and therefore, his complaint before Justice of Peace was devoid of merits.

Learned counsel for the private respondent No.3 submits that the incident whereby the respondent No.3 lost his young son is not denied and this happened due to negligence on the part of petitioners, whereas learned Justice of Peace has only directed the police officials to record the statement of respondent No.3 and thereafter proceed in accordance with law, therefore no case is made out by the petitioners. Insofar as filing of petition is concerned, he submits that the same is primarily for shifting of the high tension wires.

Learned A.P.G has supported the impugned order and submits that there is no illegality in the said order which has been passed in accordance with law and therefore, this petition be dismissed.

I have heard all the learned counsel as well as learned A.P.G and perused the record. The learned Justice of Peace while disposing of the application of respondent has observed as follows;

After hearing both counsel for the respective parties as well as perused the material available on record reveals that prima facie there is sufficient material for issuance of directions for recording the statement of the applicant by the respondent No.1, as such the application in hand is hereby allowed and the SHO P.S. Waleed/respondent No.1 is directed to record the statement of applicant and if the cognizance offence is made out, then incorporate the version of the applicant into book under section 154 Cr.P.C. and to act in accordance with law. The applicant is advised to appear before the respondent No.1 for recording his statement. Accordingly aforesaid criminal miscellaneous application disposed of.

Insofar as the aforesaid finding of the learned Justice of Peace is concerned, there does not appear to be any illegality or ambiguity which could warrant interference by this Court. All pertinent facts have been noted and taken care of in the impugned order and after examination of all the material available, the Police officials have been issued certain directions. Learned Justice of Peace has only given directions to the concerned SHO for recording the statement of the applicant /respondent No.3 and if any cognizable offence is made out then to incorporate the version of the complainant/respondent No.3 into book U/s 154 Cr.P.C and act in accordance with law. This is what the requirement of law is. Whereas the petitioners have filed instant petition by preempting the action, which is yet to be taken by the police officials pursuant to the impugned order. Learned counsel for the petitioners while confronted

had also made his submission that the police officials may be directed to also call the petitioners and record their statements as well before proceeding further. However, he could not point out any such provision whereby the proposed accused are called for recording their statements before proceeding further by the investigating officer. Insofar as filing of petition is concerned, that has an independent cause of action regarding transfer of the high transmission lines and has got nothing to do with the present proceedings. Mere claiming of the compensation/damages in the said petition would not debar the respondents from proceeding in accordance with law viz-a-viz criminal liability, if any, of the petitioners.

In such circumstances, I am of the view that the order impugned is correct in law and no case for indulgence is made out, as the learned Justice of Peace has passed a reasoned and speaking order and hence does not require any interference by this Court. Accordingly instant petition being misconceived in fact and law is hereby dismissed.

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