

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Crl. Misc. Appln. S-180 of 2014.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
--------------------	---------------------------------------

1. For orders on office objection as Flag 'A'.
2. For Katcha Peshi.


05.9.2014

Mr. Safdar Ali Ghouri, advocate for applicant.

Mr. Imtiaz Ali Jalbani, A.P.G.

-----

Learned counsel for the applicant has challenged the order dated 7<sup>th</sup> August 2014 passed by Sessions Judge/Justice of Peace Larkana in terms whereof the application filed by the applicant under the provisions of section 22-A & B, Cr.P.C was dismissed. It is contended by the applicant that the proposed accused by committing Haraabah have taken away motorcycle only to settle the matrimonial dispute and FIR is not being registered by the concerned SHO. The defense that has been taken which is reflected in the order is that "police under no obligation to record the FIR of the incident which has not been taken place." I am afraid such statement should not have been given by the learned DPP before trial Court since not only that statement of the applicant has not been recorded but no investigation has taken place. Learned A.P.G has taken me towards various sections of Cr.P.C including 155, Cr.P.C which are procedural. As far as the complaint of the applicant is concerned, he submits that in terms of the judgment of the Honourable Supreme Court reported in 2010 wherein measures are required to be taken and it is not absolute discretion and prerogative of applicant to have lodged any FIR as legal mind has to be applied by trial Court before passing such order. No doubt in passing every order the learned trial Court is required to apply its mind. However, in the instant case it appears from the perusal of the application that at least statement is to be recorded and if cognizable offence is made out the concerned SHO may proceed further in this regard regarding which procedure has been highlighted by the learned A.P.G. Hence by consent impugned order is set aside and I direct the applicant to approach concerned SHO for recording statement and if cognizable offence is made out the SHO may proceed further. Crl. Misc. Application stands disposed of.

  
Judge