

35

IN THE HIGH COURT OF SINDH CIRCUIT COURT, LARKANA

Crl. Misc. Application No.S-19 of 2017

Gulab Shah

Applicant.

Versus

Superintendent of Police Shikapur and others -----

Respondents.

Date of hearing : 05.6.2017

Mr. Shahbaz Ali M. Brohi, Advocate for the Applicant.

Mr. Aijaz Mustafa Samtio, DDPP for the State.

ORDER

ADNAN-UL-KARIM MEMON,J.- Applicant has impugned order dated 21.1.2017 whereby application moved by the Applicant under section 22-A(6)(i)(iii), Cr. P. C. for registration of FIR against proposed accused is dismissed by learned Ex-Officio Justice of Peace/ Sessions Judge, Shikarpur.

2. Mr. Shahbaz Ali Brohi, learned counsel for Applicant argued that the Applicant moved an application to Station House Officer, Police Station Rustam to register FIR against one Usman son of Nek Muhammad @ Guloo, Ghamshad son of Khuda Bux Buriro and Naban @ Nabi Bux all resident of Garhi Yaseen Bello, District Larkana. The allegations against the said persons are that they robbed the motorcycle of the Applicant and physically assaulted him. He next contended that the Applicant moved Miscellaneous Application No.41/2017 under Section 22-A(6)(i)(iii), Cr. P. C. for registration of F. I. R. against the proposed accused before the learned 3rd Additional Sessions Judge, Shikarpur. But, the same was declined vide order dated 21.1.2017 on the ground that the Applicant has not disclosed description of the robbed bike which raises suspicion against the Applicant. He next contended that from the perusal of application it clearly transpires that a cognizable offence has been committed by the proposed accused but the relief has been declined. He lastly prayed for setting aside of the impugned Order dated 21.1.2017 with directions to SHO, Police Station Rustam for registration of FIR against the proposed accused.

3. Mr. Aijaz Mustafa Samtio, learned DDPP for the State has opposed the grant of application on the ground that the same is misconceived and



not maintainable. He argued that Applicant has alternate remedy available under the law that is, Private Complaint to the competent court.

4. I have heard the learned counsel for the Applicant, learned DDPP for the State and perused the material available on record.

5. Perusal of record reflects that Applicant moved an Application under section 22-A(6)(i)(iii), Cr. P. C. before learned Justice of Peace who declined the relief to Applicant vide order dated 21.1.2017 on the ground that Applicant did not disclose the particulars of robbed property (bike) which according to him creates doubt as to whether the applicant is providing correct information with respect to the alleged incident. The record further shows that even the registration book of the robbed bike is not brought on the record by the Applicant in support of his version. Therefore, the version of the Applicant is prima facie vague in nature.

6. I am of the view that learned Ex-Officio Justice of Peace before exercising jurisdiction under section 22-A(6)(i)(iii), Cr. P. C. has to be satisfied with the information provided by the Applicant to assume jurisdiction. The record shows that Applicant has failed to place on record convincing material to substantiate his claim for issuance of direction for registration of F.I.R. The above proposition is supported by the decision of five member bench of Honorable Supreme Court rendered in the case of YOUNAS ABASS and others v. ADDITIONAL SESSIONS JUDGE, CHAKWAL and others (PLD 2016 SC 581).

6. In view of the above discussion I am of the opinion that Applicant has failed to make out a case for indulgence of this Court. Therefore, the instant application is dismissed. However, the Applicant may, if he wishes, avail the remedy of filing a private complaint against the alleged accused. The above observations are tentative in nature which shall not prejudice the case of either party at any stage.

mm/5/6/2017

J U D G E