

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Misc. Application No. S- 365 of 2024

Date of hearing	Order with signature of Judge
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- 1. For hearing of MA No.2924/2024 (Ex)
- 2. For hearing of main case.

05.09.2024

Mr. Shabbir Ali Bozdar, Advocate for applicant.

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- 1. Granted subject to all just exceptions.
- 2. Despite order passed on the last date of hearing wherein learned counsel for the applicant sought time to seeks instructions. Today learned counsel requires the proceedings on merits.

Learned counsel contended relying upon the case of Qamber Ali Shah vs. Province of Sindh reported in 2024 SCMR 1123 that it is required on the part of learned Ex-officio Justice of Peace to order for directions for recording of statement whereafter in case cognizable offence is made, FIR is to be lodged. Learned counsel further contends that in the present matter approach to the police officials was made but the grievance was not addressed. He further contended that documents of the tractor are in the name of the applicant. Learned counsel also contended that reasons were not present in the impugned order. He also contends that statement under section 154 Cr.P.C is liable to be recorded of the applicant and thereafter the matter of cognizance is liable to be considered on the basis of said statement.

Having heard learned counsel for applicant and gone through the record.

Record shows that the present applicant required orders for recording his statement to get an FIR lodged under section 22-A B Cr.P.C from the learned Ex-officio Justice of Peace Ghotki. His version

in abbreviation was that 13 persons duly armed with pistols intercepted him and snatched his tractor which was turned down by the impugned order dated 05.04.2024 though providing room to the applicant to approach the civil Court after acquiring report from the police.

The alleged incident as claimed by the applicant in the matter is that 13 persons duly armed had intercepted him and taken away his tractor. Learned Ex-Officio Justice of Peace was pleased to pass order. Relevant para No.7 is re-produced for ready reference as follows.

“ The perusal of record shows that dispute between parties exists upon matter of street, which is purely of civil nature, same could be resolved by the civil Court. Furthermore, complaint and redressal center has negated the version of applicant, hence it appears that applicant has not approached this Court with clean hands and he intends to get the proposed accused booked in FIR in any manner with mala fide intention. I do not find it appropriate to issue direction for lodging of FIR, hence this application is hereby dismissed accordingly.”

The said order being impugned requires this Court to re-visit the same by way of this Criminal Misc. Application. The specific and properly framed reason to the satisfaction and desire of the party/learned counsel may not have been brought up so clearly in the impugned order, however it is clear that basically it is a non-acceptance to the version as claimed by the applicant. It is indeed hard to believe by a judicial mind that thirteen persons (13) persons said to be duly armed with pistols would indulge in such a limited act. On the lighter side said number may be required, if the tractor was required to be physically put up on their shoulders and carried away otherwise even one armed person would be sufficient to execute the job.

Such versions of roping the whole village by nominating all the known adversaries have never been appreciated by the Courts especially in criminal proceedings as the same on account of its coercive nature creates unnecessary burden not only on the system

but also the alleged accused. A judicial mind is required to be exercised while determining an application under section 22-A B Cr.P.C which prima facie has been exercised in the matter. In the said circumstances, this **Criminal Misc. Application is dismissed** without disturbing the impugned order with a warning that in future for such an attempt costs are liable to be imposed also.

JUDGE

Irfan/PA