

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT, HYDERABAD.
C.P.No.S-587 of 2015.

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on M.A. No.9292 of 2015.
2. For Katcha peshi.

09.09.2015.

Mr. Bhagwan Das Bheel, Advocate for the petitioner.

Mr. Anwar H. Ansari, State Counsel.

Mr. Hussain Bux Solangi, Advocate for proposed accused.

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The petitioner Dhani Bux lodged an FIR bearing Crime No.05/2015 on 07.04.2015 and after registration of the FIR on the same day he was handed over the copy of the said FIR. After more than one month on 11.05.2015, the petitioner has filed an application under section 22-A Cr.P.C. before the Court of Sessions Judge Dadu, which was marked to Additional Sessions Judge-II, Dadu and same was dismissed vide order dated 13.06.2015. Against the said order the petitioner has preferred this petition.

The learned counsel for the petitioner has not been able to advance any explanation that what has prevented him for more than a month to approach the high-ups of the SHO, if according to him, the FIR was not properly lodged and he was not satisfied with the contents of the FIR.

The provisions of section 22-A Cr.P.C. are designed to cater the requirement of lodging an FIR in case the police has refused to register the same. Section 22-A Cr.P.C. is reproduced hereunder:-

“22-A.Powers of Justice of the Peace. (1) A Justice of the Peace for any local area shall, for the purpose of making an arrest, have within such area all the powers of a Police Officer referred to in section 54 and an officer in-charge of a police-station referred to in section 55.

(2) A Justice of the Peace making an arrest in exercise of any powers under subsection (1) shall, forthwith, take or cause to be taken the person arrested before the officer in-charge of the nearest police-station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person.

(3) A Justice of the Peace for any local area shall have powers, within such area, to call upon any member of the police force on duty to aid him:

- (a) in taking or preventing the escape of any person who has participated in the commission of any cognizable

offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated; and

(b) in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquility.

(4) Where a member of the police force on duty has been called upon to render aid under subsection (3), such call shall be deemed to have been made by a competent authority.

(5) A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Provincial Government:

(a) issue a certificate as to the identity of any person residing within such area, or

(b) verify any document brought before him by any such person, or

(c) attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.)

(6) An ex-officio justice of the Peace may issue appropriate directions to the police authorities concerned on a complaint regarding,

(i) non-registration of criminal case;

(ii) transfer of investigation from one police officer to another; and

(iii) neglect, failure or excess committed by a police authority in relation to its functions and duties.)”

After going through the section 22-A Cr.P.C. a question was asked by this Court whether the Justice of Peace was empowered to entertain application under section 22-A Cr.P.C. for registration of second FIR about same incident by the same complainant. The learned counsel candidly conceded that the provisions of section 22-A(6) Cr.P.C. do not envisage powers to direct the police to register second FIR. Therefore, Justice of Peace had no jurisdiction to entertain the application under section 22-A Cr.P.C. as the FIR of the same incident has already been lodged by the same petitioner. There is no scope of second FIR in terms of the provisions of section 22-A Cr.P.C, therefore, irrespective of the fact that the learned Additional Sessions Judge has dismissed the application of the petitioner on any ground in fact it should not have been entertained.

In view of the above legal position, this petition having no merits for consideration is dismissed.

JUDGE