DATE	ORDER WITH SIGNATURE OF JUDGE

1. For order on M.A. No.10424 of 2015.
2. <u>For katcha peshi</u>.

<u>16-10-2015</u>.

Mr. Shahnawaz Brohi, Advocate for the petitioner.

Mr. Anwar H. Ansari, State Counsel.
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Learned counsel for the petitioner is not ready to appreciate that in case

the police refused to register F.I.R, it can not be expected from the police that

investigation of the case will be free and fair on the F.I.R. registered on the

forceful direction and it would adversely affect the merits of the case of the

applicant. Keeping in view the above position as well as human behaviour, law

provides remedy of filing direct complaint under section 200 Cr.P.C. However,

learned counsel for the petitioner claims that F.I.R. be registered. The remedy

by way of filing application under section 22-A Cr.P.C. was availed by the

applicant and the learned Justice of Peace after two pages' detailed order has

come to the conclusion, which reads as under:-

> "6.   Of-course, it is requirement of law that FIR of a cognizable offence should be registered but simultaneously it is the duty of Ex-Officio Justice of Peace that he should apply mind and to consider that the applicant has come with clean hands or assertions are tainted with malice, reliance is placed on case of Imtiaz Ahmed Cheema Versus SHO PS Daharki, reported in 2010 YLR 189. In this regard further reliance is placed on an unreported order dated 18.12.2014 passed by the honourable High Court, Circuit Court Hyderabad in Cr. Misc. Appl: No.S-522/2014 wherein it has been observed that:-
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> > ***"It is worth to add here that Ex-Officio, Justice of Peace is not just like a post office to stamp any application moved u/s 22-A and B Cr.P.C, moved for lodging FIR. Ex-Officio, Justice of Peace is competent to examine the material available on record but to the extent of happening of a cognizable offence or otherwise".***
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> 7.   It has come on record that applicant has brought this application after registration of FIR No.5/2015 of PS Shahpur

against his relative which was registered by ASI Gulsher Odd, who has been shown as main proposed accused in this application, while proposed accused Tharo Khan is SHO of the police station. The applicant has concealed the fact of registration of FIR by above named proposed accused against his relative, as such, has not come with clean hands. If on the basis of such kind of application FIR is registered it would certainly discourage the law enforcing agency from performing their official duties and on the other hand, the accused against whom case is registered by police, would be encouraged to drag the police on the floor of court when action is taken against them. In this connection I am supported by case of Rai Ashraf & Others v/s Muhammad Saleem Bhatti & Others reported in P.L.D 2010 S.C 691 wherein it is held by the Honourable Supreme Court of Pakistan that each case is to be decided on its own peculiar facts and circumstances and set aside the order of Honourable High Court regarding registration of FIR by observing further therein that applicant had approached the court with malafide intention to restrain the public functionaries from taking action under rules and regulations. So far the citations relied upon by the learned applicant's counsel, with profound respect the same are on different facts and are not relevant to the facts and circumstances of this case.

9.   This application, in such circumstances as discussed above, appears to have been filed just to pressurize the police and make this court as a tool which cannot be allowed. Applicant has failed to convince the court for exercising powers u/s 22 A & B Cr.P.C, as such, in view of the case law referred here in above, this application is dismissed."

After careful examination of the record, I do not find any illegality in the impugned order. The police cannot be forced to register F.I.R. of the applicant especially, after the Justice of Peace has dismissed the application. The petition being devoid of merits is dismissed accordingly, alongwith listed application.

JUDGE

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