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**SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Jamal Khan Mandokhail

Mr. Justice Syed Hasan Azhar Rizvi

**Criminal Petition No.44-K of 2021**

[Against the judgment dated 22.01.2021, passed by the High Court of Sindh, Karachi in Cr. Misc. Application No.496 of 2019]

***Fazal Haq.***

...Petitioner(s)

***Versus******Abdul Rehman @ Rehman & another.***

...Respondent(s)

For the Petitioner(s)

: Mr. Zaheer ul Din Mujahid, ASC  
Mr. Mazhar Ali B. Chohan, AOR  
along with petitioner, in person.

For the Respondent(s)

: N.R.

Date of Hearing

: 19.12.2022

**ORDER**

**Jamal Khan Mandokhail, J:-** This petition has been filed against the judgment dated 22.01.2021 of the Single Judge of the High Court of Sindh, Karachi **(the High Court)**. Respondent No.1 **(the respondent)** was nominated in the FIR, registered under Sections 109, 395 PPC. It is alleged by the petitioner that he was a tenant in a house. The respondent-accused trespassed his house and taken away valuable properties belonging to him. During the trial, the respondent filed an application under Section 265-K Cr.P.C., which was dismissed by the trial Court, vide order dated 12.10.2019. Being aggrieved, the respondent filed a criminal miscellaneous application before the High Court, which was allowed and the FIR was quashed through the impugned judgment, hence this petition.

2. Heard. We have noted from the record that the house in question, which according to the petitioner was in his

possession as a tenant, is under litigation between the Respondent No.1 and one Abdul Sattar, who in addition of civil litigation, has registered some FIRs as well against the Respondent No.1, but could not succeed. The present FIR has been registered by the petitioner, after 13 days without explaining the delay. Under such circumstances, a possibility of consultation and deliberation for the purpose of false implication of the Respondent No.1 cannot be ruled out. Besides, the evidence and the material available on the record are not sufficient to prove the allegations levelled by the petitioner against the Respondent No.1. Even from the perusal of the remaining prosecution witnesses, no case against the Respondent No.1 is made out. Since there is no possibility and probability of the conviction of the Respondent No.1, therefore, continuation of the trial on the basis of FIR in question would be an abuse of the process of law. Under such circumstance, the High Court was right in accepting the request of the Respondent No.1. The learned counsel for the petitioner has not been able to point out any illegality or perversity in the impugned judgment warranting interference by this Court. Therefore, leave is refused and the petition is dismissed.

Bench  
Karachi  
19.12.2022  
NOT APPROVED FOR REPORTING  
Rabbani\*/



  
JUDGE

JUDGE