

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Crl. M.A.No. D- 441 of 2016**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For katcha peshi.

Present:  
**Mr. Justice Hasan Azhar Rizvi &**  
**Mr. Justice Aftab Ahmed Gorar.**

Mr. Zulfiqar Ali Naich Advocate for Applicant.  
Mr. Abdul Majeed Memon, Special Prosecutor NAB (Sukkur).  
Mr. Mian Mumtaz Rabbani, D.A.G.

Date of hearing:        07-12-2016

**ORDER**

**Aftab Ahmed Gorar J.,** Through this Crl. Misc. Application under section 561-A Cr.P.C, applicant Ghulam Hussain has called in question the order dated 22.10.2016, passed by learned Judge, Accountability Court, Sukkur, through which the application under section 540 CrPC filed by the applicant was turned down.

2.     Learned counsel for applicant contended that due to pendency of Constitutional Petition before this court, the adjournment was sought from the trial court on 29.6.2016, but that application was dismissed and examination-in-chief of PWs was recorded by the trial court, however, their cross-examination was reserved. It is further contended that it is settled law that no one should be condemned unheard and it is also the right of every accused to defend the case. Lastly, learned counsel for applicant prayed for recalling of the PWs for their cross-examination.

3.     Learned Special Prosecutor NAB, Sukkur while supporting the impugned order contended that prior to rejection of application under section 540 CrPC, the application for same relief was allowed and summons were

issued to PWs for their cross-examination, however, when the PWs were in attendance for their cross-examination, again learned defence counsel sought adjournment and subsequently filed application under section 540 CrPC for recalling the PWs for their cross-examination, which has rightly be rejected.

4. After hearing the learned counsel for the parties and going through the impugned order, we have noticed that after submission of Reference No.23 of 2015 before the Judge, Accountability Court, Sukkur against the applicant, the charge was framed against the applicant. Consequently, PWs were summoned and their examination-in-chief was recorded, however, cross-examination was reserved as the learned defense counsel filed adjournment application, which was dismissed. However, application under section 540 CrPC was moved on behalf of the applicant, which was allowed and the summons were issued to the PWs for their cross-examination and when the PWs remained in attendance for their cross-examination, learned defence counsel was absent and again adjournment application was moved, which was dismissed.

5. From the above facts and circumstances of the case, it revealed that the applicant and his counsel were afforded ample opportunity to exercise right of cross-examination, but they failed to avail such opportunity by moving frequent adjournment applications. Even otherwise, no jurisdictional infirmity, illegality of approach, irregularity of procedure or perversity of reasoning has been pointed out by the learned counsel for the applicant so as to warrant an interference in the impugned order dated 22.10.2016, passed by learned Judge, Accountability Court, Sukkur. Consequently, this Crl. Misc. Application has no force and the same was dismissed in limine by short order dated 07.12.2016. These are the reasons in support of our short order.

JUDGE

JUDGE

Ahmed