

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Rev. Appln. No. S – 112 of 2019

Date	Order with Signature of Hon'ble Judge
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For hearing of case

1. For orders on office objection at flag 'A'
2. For orders on MA No.5725/2019 (Ex.A)
3. For hearing of main case
(Notice issued)

13.12.2019

Applicant / complainant Muharam Ali Katpar present in person
Mr. Shafi Muhammad Mahar, DPG for the State

ORDER

Aftab Ahmed Gorar, J- The applicant / complainant by way of instant Criminal Revision Application has impugned order dated 17.10.2019, passed by learned Special Judge, Anti-Corruption (Provincial) Sukkur, whereby his direct complaint was dismissed under Section 203 Cr.P.C.

2. It is contended by the applicant / complainant that the learned trial Court has dismissed the complaint of the applicant without lawful justification, ignoring the fact that the applicant was able to make out a case for cognizance of his complaint; that the learned trial Court has committed glaring irregularities and patent improprieties while dismissing the direct complaint; that the private respondents have received the part payment of the settled amount of illegal gratification,

therefore, they are liable to be prosecuted in accordance with law; that the learned trial Court has failed to consider that his statement has been supported by the witness Ghulam Muhammad; that there was sufficient material available with the trial Court for bringing the direct complaint on regular file. He has lastly prayed for setting-aside of the impugned order and bringing the direct complaint on regular file.

3. Learned Deputy Prosecutor General for the State has sought for dismissal of the instant Criminal Revision Application by contending that the independent witness namely PC Qasim has not been examined by the applicant / complainant, whereas, another witness Ghulam Muhammad who is maternal-uncle of the applicant / complainant, therefore, his version cannot be believed as trustworthy.

4. I have considered the above arguments and perused the material available on record.

5. Admittedly, the applicant / complainant is seeking that cognizance may be taken in the case as the private respondents being the government servants have agreed to receive the illegal gratification so also received the part payment thereof for his reinstatement in police services. The learned trial Court was right to dismiss the direct complaint of the applicant / complainant. The relevant portion of the order of learned Judge Ant-Corruption Court (Provincial) Sukkur is reproduced as under;

"I have very carefully and minutely gone through the contents of the complaint, statement of complainant recorded u/s 200 Cr.P.C and his solve witness Ghulam Muhammad, who is maternal-uncle of the complainant u/s 202 Cr.P.C. Complainant in his statement recorded u/s 200 Cr.P.C has stated that proposed accused Office Superintendent Bashir Shah demanded illegal gratification of Rs.100000/- for his reinstatement and agreed to receive Rs.50000/-, whereas, complainant paid Rs.20000/- to proposed accused to Bashir Shah in presence of witness Ghulam Muhammad Katpar. He also stated in his statement that he paid Rs.10000/- illegal gratification to accused Asghar Bhayo, Sheet Clerk. He further stated that Bashir Shah returned Rs.15000/- only through PC Qasim on 25.02.2019, whereas, complainant in his complaint never stated proposed accused Bashir Shah demanded illegal gratification of Rs.100000/- and agreed to receive Rs.15000/- for his reinstatement in the service. He also not stated in his complaint that proposed accused Bashir Ahmed Shah returned Rs.15000/- to the complainant through PC Qasim. Moreover, PC Qasim is not examined by the complainant in this complaint in support of his version. Witness Ghulam Muhammad is maternal-uncle of complainant, he also not deposed that Rs.15000/- were paid to complainant by proposed accused Bashir Ahmed Shah through PC Qasim.

It is pertinent to mention here that PC Qasim being independent and important witness was not examined by the complainant, the only witness Ghulam Muhammad who is maternal-uncle of complainant, hence cannot be said as independent witness. Therefore, I am of the opinion that complainant did not approach this Court with clean hands, there are material contradictions between the contents of complaint and statement of complainant recorded u/s 200 Cr.P.C and his witness recorded u/s 202 Cr.P.C. Therefore, I am of the opinion that complainant failed to make out case in his favour for issuance of process against the proposed accused, hence complaint is dismissed and disposed of u/s 203 Cr.P.C."

6. The applicant / complainant has failed to examine the independent witness namely PC Qasim, whose evidence being independent was very much essential to support the version of the applicant / complainant as setout in the direct complaint as well as in his statement recorded under Section 200 Cr.P.C. Furthermore, the second witness namely Ghulam Muhammad, who being maternal-uncle of the applicant /complainant, though was examined but has given contradictory statement on material aspects of the case. In such circumstances, the learned trial Court was right to dismiss the direct complaint of the applicant / complainant while passing the impugned order dated 17.10.2019, which does not call for any interference by this Court, accordingly, the instant Criminal Revision Application is dismissed along with listed application.

Judge

ARBROHI