

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Misc. Appln. No. S – 334 of 2019**

Date

Order with Signature of Hon'ble Judge

**Priority case**

1. For orders on office objection at flag 'A'
2. For hearing of main case
3. For hearing of CMA No.2461/2019 (S/A)  
(Notice issued)

**25.10.2019**

Mr. Nawab Ali Pitafi Advocate for the applicant/complainant  
 Mr. Khalil Ahmed Maitlo, DPG for the State a/w ASI Manzoor Ahmed  
 Mirani

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**Aftab Ahmed Gorar, J;** The applicant/complainant by way of instant Criminal Miscellaneous Application has challenged the impugned order dated 23.4.2019, passed by learned Civil Judge and Judicial Magistrate Daharki on the Summary Report under Section 173 Cr.P.C submitted by the concerned SHO for disposal of the case under 'C' class in Crime No.91/2019 under Section 506/2 PPC of police station Daharki.

2. Learned counsel for the applicant/complainant submits that the learned Magistrate while passing the impugned order has not considered the material facts as mentioned in the FIR, whereas, the version of the complainant was supported by his witnesses. He further submits that the learned Magistrate has agreed with the report of the police and as such has disposed of the case under 'C' class, whereas, the accused who were nominated in the FIR have committed a cognizable offence as they duly armed with pistols and dagger came at the shop of the applicant and issued him threats of dire-consequences. He lastly prayed that the impugned order is liable to be set-aside and the case may be challaned and private respondents may be directed to face their trial.

3. Learned DPG appearing for the State has supported the impugned order by stating that there is no such illegality in the impugned order the same is liable to be maintained.

4. I have heard the learned counsel for the applicant/complainant as well as learned DPG for the State and perused the case file. Admittedly, the applicant/complainant and the private respondents are related to each other and there is dispute going on in between them over the partition of the property, whereas, the private respondents used to asked the applicant/complainant not to involve himself in the dispute going on in between the private respondents and the nephew of the applicant/complainant. The private respondents allegedly duly armed with pistols and dagger came at the shop of the applicant, but there is no any independent witness from the neighbouring shops and market, except the brother and nephew of the applicant/complainant. In such circumstances, there appears no truth in the version of the applicant/complainant as setout in the FIR, if the case would be challaned, definitely it would a futile exercise and the private respondents would be dragged in unnecessary criminal litigation. The learned Magistrate has rightly passed the impugned order and approved the report U/s 173 Cr.P.C for disposal of the case under 'C' cancel class. Consequently, the instant Criminal Miscellaneous Application is dismissed.

Judge

ARBROHI