

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-1021 of 2015

Date	Order with signature of Judge
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For direction

1. For orders on CMA No.6493/2016 (Contempt)
2. For orders on CMA No.31023/2015 (U/S 151 CPC)
3. For hearing of CMA No.18426/2015 (U/A 199)

25-05-2017

Mr. Abdul Latif Leghari, Advocate for Petitioner

Mr. Jan Muhammad Khuhro, AAG

Mr. Ali Haider Saleem, APG alongwith AIGP/Legal-I

Mr. Ghulam Shabir Memon, AIGP/Legal-II Mr. I.D. Mangi,
AIGP/Legal-III Mr. Aijaz Ahmed, PI/SIO Hakim Ali, P.S Shah
Latif Town, Karachi

She (petitioner) is mother of deceased who, at the time of murder of her son, was residing in Karachi, but after his son's murder shifted to Larkana and she is attending this Court for arrest of accused, as well to pursue the case before the trial Court regularly. Needless to remind that the duty of police does not come to an *end* only by entering the name of an *accused* in FIR or by entering the name of an *absconder* into a register but continues till the accused or absconder is brought before the law either by way of *arrest* or by way of other *compelling* circumstances which the law and *rules* permit. Worth to add here that pain of an *old* mother in traveling from Larkana to Karachi to appear in this petition and trial Court for an *obligation / duty* of Police, cannot be ignored, hence she shall be compensated with regard to lodging and boarding expenses, including travel expenses by the office of Prosecutor General, Sindh. As well requisite protection shall be provided to the petitioner and her family.

In pursuance to the order dated 23.05.2017 AIGP/Legal-II submits report with regard to constitution of a team, particularly for arrest of accused in Crime No.453 of 2014 under Section 114,302,506-B/34 PPC

registered with P.S Shah Latif Town, District Malir, Karachi. Mr. Ghulam Shabir, AIGP/Legal-II present, submits the detail of proclaimed offenders and absconders of whole province of Sindh except Nawabshah Division. According to detail, proclaimed offenders are forty one thousand, three hundred and twenty four (41,324) and absconders are fifty seven thousand, five hundred and twenty eight (57,528), in total about ninety nine thousands (99,000).

By judgment of this Court in case of Nasrullah versus Station House Officer, Police Station Jacobabad and 6 others reported as PLD 2016 Sindh 238 judicial notice was taken when it was surfaced that in Larkana Division *alone* number of absconding accused was fifty nine thousand (59,000) and thereby I.G.P Sindh was directed to place the names of proclaimed offenders in ECL, establish website by updating all the names enabling police officers and common people to visit the website or to facilitate police in arresting the *absconders* who are found or seen walking near or around them. As well, directions were issued to establish I.T Cell, freezing accounts and CNICs of absconders so as to leave the *absconder* with no option but to surrender before court of law, as we are *conscious* of fact that it is not *practicable* for police *alone* to physically arrest all *absconder* because of which *law* and *Rules* do permit other mechanism not only to attach their properties but also by *affixing* such publications at conspicuous places. I.T Cell was directed to include Member Board of Revenue and NADRA shall also be on board.

At present, AIGP has submitted report, which shows that there are about ninety nine thousand (99,000) absconders in Sindh province except Nawabshah Division, which comprises upon three districts and seeks time to place that report within three days. One can *safely* say that an *absconder* shall always be an easy *prey* for the '**Terrorists/ evils**' to keep the law and

order situation *disturbed* on permanent basis, particularly in city like Karachi; notice whereof (law and order situation in Karachi) was also taken by honourable Supreme Court. We would not hesitate in saying that if such *abnormal* number of absconders is not reduced the *desire* of having a permanent *peace* shall remain as a '**dream**' alone. Bringing an *absconder* before the Court of law is always with *two* objectives. First to ensure that any *guilty* shall receive his due which, if is assured to be given, shall either reform the *guilty* into a useful citizen or keep the *evil* away thereby letting a sense of law and order prevail in the society. We are afraid that how present police system will maintain the law and order situation when the mountain of absconders is *abnormally* increasing and steps, which the police must take, have been left to remain as *chapters* of Books alone despite hammering by this Court as well Apex Court.

Before going any further, it is relevant to mention that in paragraphs 6 & 7 of the report dated 25.5.2017 it is contended that:-

"6/- However to make this whole process meaningful the directions may be issued to NADRA to provide the facility of 1.N match as the existing facility of 1.N match may not work in all situation specially when the suspect P.Os and absconder is not carrying his CNIC and telling the fake name. In this situation the facility of 1.N match would identify the actual particulars of suspect P.O/absconder when present through biometric verification and digital data base of the criminals.

7/- That Director I.T forward a letter vide No.1070-79/DIT/CPO, dated 05.04.2017 to Director of Information for publication of tender notice of PC-I of automation of Human Resources Management System for all employees of Sindh Police Department to further improve the system to arrest the P.Os/absconders through biometric etc, which is under process. (Copies enclosed)"

There can be no denial to the undeniable legal position that whenever it comes to the *fundamental right of a citizen*, the barrier of Province or Federation should not come in the way as an *excuse* because Chapter-II addresses the '**State**' which *do* include Federation and Province *both* in their respective limitations. Since, the contention with regard to involvement of NADRA as helping hand in achieving the ultimate object

i.e a state free of *absconders*, appears to be quite reasonable. Accordingly, under these circumstances, we feel it proper to direct Federation of Pakistan to help out province of Sindh with all resources including law enforcement agencies and issuing appropriate directions to Chairman NADRA to extend full cooperation in this regard. The Chairman NADRA shall also submit progress report with regard to providing such facilities to Sindh police. Under these abnormal circumstances, we also expect that I.G.P Sindh will take drastic action and will launch campaign on war basis and all DIGsP and SSsP shall cooperate and ensure that not a single absconder is freely roaming; all coercive actions shall be taken as provided in the judgment as well as police rules and relevant laws. Compiled lists shall be submitted on or before the next date of hearing.

In case absconding accused in FIR No.453 of 2014 are not arrested without justifying such *failure* to be after all legal measures, insisted in the judgment *supra*, we would be constrained to issue contempt notice to I.G.P Sindh.

As well, website is not functioning with updated list, such publication of proclaimed offenders shall be effected in the local and national newspapers by mentioning all absconders in division wise with the appeal to the public to cooperate in the arrest of the absconding accused and such publication, shall provide toll free number and website with assurance to public that name and details of the informant would not be disclosed rather he shall be protected, which otherwise is the obligation and duty of police. This exercise shall be completed within fifteen days with compliance report.

Accordingly, issue notice to Home Secretary, Sindh, Secretary, Ministry of Interior, Government of Pakistan and DAG.

Copy of this order shall be supplied to the Advocate General, Prosecutor General, DAG, and covey to Home Secretary, Senior Member Board of Revenue, I.G.P, Sindh, Secretary Ministry of Interior, Government of Pakistan, Chairman NADRA, President State Bank of Pakistan.

To come up on 01.06.2017 at 12:30 p.m.

JUDGE

JUDGE

Barkat Ali/PA