

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

C.P.No.D- 2670 of 2017

DATE JUDGE	ORDER WITH SIGNATURE OF
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30.08.2017.

Mr. Bashir Ahmed Almani, Advocate for petitioner.

Mr. Shahid Ahmed Shaikh, D.P.G. for the State.

Mr. Ali Abbas Memon, State Counsel alongwith SIP Noor Muhammad on behalf of DIGP Hyderabad, SIP Riaz SHO PS B-Section Tando Allahyar, SIP Aftab Ahmed PS B-Section Tando Allahyar, Inspector Suhbar Mari CIA Tando Allahyar, SIP Mazhar Ali PS A-Section Tando Allahyar and ASI Ehsanul Haq ARDC.

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Mr. Muhammad Asif Talpur, Advocate files Vakalatnama on behalf of respondents No.13 to 18 whereas learned State Counsel files comments on behalf of the official respondents, taken on record.

2. Through instant petition, the petitioner seeks quashment of (i) FIR No.85/2017 u/s 353, 147, 148, 149, 504, 337-H(ii) PPC & 6/7 ATA, (ii) FIR No.86/2017 u/s 353, 147, 148, 149, 337-H(ii) PPC & 6/7 ATA, (iii) FIR No.88/2017 u/s 25 of Sindh Arms Act, (iv) FIR No.87/2017 u/s 324, 147, 148, 149, 504, 506(2), 337-A(i), 337-F(i) PPC, all registered at P.S. A-Section Tando Allahyar and FIR No.24/2017 u/s 452, 506(2), 147, 149, 504, 354 PPC registered at P.S. B-Section Tando Allahyar.

3. Learned counsel for the petitioner contends that all the FIRs have been registered with malafide intention and that the lady Mst. Hameeda is very influential and at her instance the police has become his enemy as well he contends that since petitioner has lodged one FIR against the police officials that's why the police officials have lodged various FIRs though the petitioner and his son are innocent therefore, the matter requires inquiry/re-investigation.

4. Learned D.P.G. and learned State Counsel as well the counsel for the private respondents contend that the petitioner is habitual in making complaints against the various persons; earlier he moved application against one C.O.C. as his application for permission to work as petition writer was declined by the District & Sessions Court; further they contend that all the FIRs are in accordance with law and it is not the case of re-investigation as out of these cases, one case has been challaned. It is further contended that there was camp in front of the Civil Hospital Tando Allahyar and when police tried to remove that camp but the petitioner with other persons of political party were not ready and caused deterrence hence one FIR was registered against all those persons including the petitioner.

5. It is pertinent to mention that investigation and the re-investigation is the prerogative of the police and whenever there appears reasonable justification the same can be done and a supplementary challan / report may be submitted even after submission of *first* final report under section 173 Cr.PC. Reference may well be made to the case of Raja Khurshid Ahmed v Muhammad Bilal & others 2014 SCMR 474 wherein it is held as:-

“5. It would be seen that as per settled law, there is no bar to the reinvestigation of a criminal case and the police authorities are at liberty to file a supplementary challan even after submission of the final report under section 173 Cr.PC. However, this cannot be done after the case has been disposed of by the learned trial Court”.

Normally, this Court has no *jurisdiction* to interfere into such *domain* of the police nor is supposed to examine the manner of investigation because *legally* the opinion of the Investigating Officer has no *binding*

effect. Reference may be made to case of Muhammad Farooq v. Aftab Hussain PLD 2003 Karachi 309. However, if it *prima facie* appears that investigation is *mala fide* or is clearly beyond jurisdiction of investigating agencies concerned then this court *may* be approached for the action of the investigating agencies to be corrected. Reference may be made to case of Muhammad Ali v. Additional I.G. PLD 2014 SC 753.

Admittedly, the private party lodged FIR, albeit it is the claim of the petitioner that he has no dispute with that widow lady and FIRs are *mala-fide*. A claim of FIR, being *mala fide*, would never be sufficient for re-investigation or change of investigation because same could *only* be if there are *prima facie* circumstances showing *mala fide* or exercise in a colorful manner.

6. Perusal of the FIRs and after hearing the parties, we are of the view that this is not the case of colorful exercise. Accordingly, the instant petition is dismissed.

JUDGE

JUDGE

Tufail