

IN THE HIGH COURT OF SINDH, AT KARACHI

PRESENT:-

MR. JUSTICE MUHAMMAD IQBAL KALHORO

MR. JUSTICE SHAMSUDDIN ABBASI.

Constitutional Petition No. D – 5688 of 2017

For Directions:

1. For orders on CMA No.24180/18.
2. For orders on CMA No.24181/18.
3. For hearing of CMA No.21988/18.

Petitioners 1. Khawaja Muhammad Asghar
son of Muhammad Siddik.

2. Masroor Asghar son of
Khawaja Muhammad Asghar.

Respondents Province of Sindh & others.

Petitioners In person.

Respondents Mr. Ali Hyder Saleem,
DPG.

Date of hearing 07.08.2018

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ORDER

SHAMSUDDIN ABBASI, J:- In terms of order dated 26.03.2018, this petition was disposed of, which is reproduced herein below:-

“Petitioner has argued his case at some length. He has submitted that he has got a dispute with private respondents over possession of his plot regarding which a civil litigation is pending before the Civil Court. The said private respondents had got 03 FIRs registered in the past against him and his son but all of them have been disposed of under ‘C’ class and presently no adverse action is pending against him before any Court of Law, however, he fears that private respondents may lodge another FIR against him, therefore, needs some protection.

We, under the circumstances, direct the Deputy Prosecutor General as well as Addl. Advocate General to ensure that protection in accordance with law is provided to the petitioner and his family members and that no

harassment is caused to them by the private respondents. He as and when appears before the Police Station concerned with a complaint, he shall be given a right of hearing.

In above terms, instant petition stands disposed of alongwith all listed applications.

2. An application under Section 3 of the Contempt of Court Ordinance 2003 read with Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 {CMA No.21988 of 2018} has been filed by the petitioners on 21.06.2018 seeking initiation of contempt proceedings against alleged contemnors on account of violation of the order passed by this Court on 26.03.2018.

3. Notice was issued to the Prosecutor General, Sindh.

4. The petitioners present in person contend that after passing order dated 26.03.2018, an FIR has been lodged against them by Respondent No.8 {Rao Muhammad Irfan} vide Crime No.121 of 2018 at Police Station Mubina Town, Karachi, under Sections 489-F, 506-B & 34, PPC on 10.05.2018, according to which the cheque in question was issued by one Abdul Salam and they have no connection of whatsoever nature with the said cheque; neither they are account holders nor the signatories of the cheque and have been falsely implicated in the said case. They further contend that despite of restraining order, official respondents in connivance with the private respondents have managed this false FIR against them, thereby they have committed defiance of the order of this Court, which is sheer violation of Section 3 of the Contempt of Court Ordinance 2003 and Article 204(2)(a)(c)(d) of the Constitution of Islamic Republic of Pakistan, 1973 and alleged contemnors are liable to be punished strictly in accordance with law.

5. Learned DPG, on the other hand, contents that this Court has not passed any restraining order against the respondents for non-registration of FIR and if they have committed any cognizable offence, the law should take its own course. He further contends that neither respondents have committed any defiance of the order of this Court nor intending to do so, the contempt application is devoid of merits and liable to be dismissed.

6. Heard petitioners and the learned DPG and perused the record.

7. The only grievance of the petitioners is that an FIR has been lodged against them in sheer violation of the order of this Court dated 26.03.2018, which amounts to contempt of Court. From perusal of the order, it reveals that no direction was given to the respondents not to register FIR against the petitioners without permission of this Court. Mere registration of FIR is not a ground to initiate contempt proceedings for violation of the order of this Court dated 26.03.2018. However, it is a matter of record that petitioner No.2, after getting bail from learned Sessions Judge, Karachi (East), has joined the investigation. It is well settled law that usually Courts are avoiding to interfere in the investigation. By order dated 26.03.2018 only protection was given to the petitioners directing the respondents not to cause any harassment to the petitioners and shall act strictly in accordance with law. Such an observation does not mean that law will not take its course, if the petitioners commit any cognizable offence.

8. For what has been discussed herein above, we are of the opinion that no case of defiance of the order of this Court is made out. Consequently, the contempt application {CMA No.21988 of 2018}

is dismissed. However, official respondents are directed to act strictly in accordance with law.

JUDGE

JUDGE

Naeem