

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-5010 of 2016

DATE	ORDER WITH SIGNATURE(S) OF JUDGE(S)
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For hearing of main case

10.09.2020

Syed Nadeem-ul-Haq, advocate a/w petitioner
Mr. Jawad Dero, Additional Advocate General Sindh
Ms. Rahat Ahsan, Additional Prosecutor General Sindh
Mr. Habib Ahmed, Special Prosecutor for Rangers
DIPG CTD Abdullah Shaikh, DSP Ali Anwar Shah, DSP Abid Bashir and
DSP Raza Mian on behalf of ADIG Legal

We regret to reproduce the order dated **23.01.2019** as below:

“23.01.2019

Investigation officer submitted the progress report along with the statements of Mst. Rasheeda Begum and Abdul Hafeez. According to the investigation officer, there was no material against the CTD officials. **Petitioner leveled serious allegations against the CTD officials and went unconscious. We have gone through the progress report minutely and found it unsatisfactory.** SSP CTD District West is directed to appear before this Court on the next date to reply the allegations of the petitioner. It is ordered that Additional Inspector General of Police Sindh will constitute a team of experienced police officials for tracing out the missing person, the husband of the petitioner, namely, Sameer Khan Afridi. Let copy of the order be sent to the Additional Inspector General of Police Sindh and Inspector General of Police Sindh by fax for compliance. Adjourned to **27.02.2019.”**

After the above order only paperwork has been done and no investigation took place on the ground. DSP investigation Syed Ali Anwar Shah has filed a progress report. This report is just an eyewash and it is not according to the SOP issued by the Inspector General of Police Sindh bearing No.24706-70/AIGP/OPS-3/2013, dated 02nd October, 2013 for investigation of missing persons cases.

Today, we asked DSP/IO Syed Ali Anwar Shah to read the statement of the petitioner recorded by him, he blatantly declared that he is not having reading glasses, therefore, he could not read it. Yesterday and even today the petitioner has again categorically stated that her missing son Sameer Khan Afridi was picked up by CTD police. She has repeatedly informed different DSP/I.Os since 2016 that her son was a conductor of a coach by the name of STAR LINE COACH. The record shows that none of the I.Os/DSPs in four years have even tried to make an effort to contact the owner of the Star Line Coach to verify and investigate whether before the date of the incident he was on his duty or not. It shows that except repeatedly recording the statement of the petitioner and writing letters nothing has been done. Apparently the words 'inquiry' and 'investigation' appear to be missing from the dictionaries of the investigating officers because nothing in the nature of inquiry/ investigation has been done in this case. The Petitioner is living on false hopes for the last four years that investigation is going on to recover her son. In January 2019, she collapsed in Court when she found that one of the missing persons picked up by CTD along with her son was recovered and her son was not even located by police. Today again the report submitted by the DSP/IO was so hopeless, that after watching today's proceedings, she could not control her nerves and again collapsed in Court. It cannot be denied that in the last four years, the investigation is more or less a fraud in the name of investigation.

The Petitioner has leveled allegations against CTD police for unlawfully taking away her son. She has repeated her allegation yesterday and, therefore, we have directed the DIGP, CTD to be present in Court. According to the petition, Abdul Hafeez and a missing person (a conductor in State Line Coach) both were arrested by CTD police on **8.8.2016** from the area near a Mosque. Abdul Hafeez has subsequently been shown involved in a criminal case, he

faced trial and he has probably been acquitted. The DIG, CTD police has denied the averments of petition about picking the son of the Petitioner. DIG, CTD, Mr. Abdullah Shaikh has informed that on **18.1.2019** on the order of this Court dated **29.8.2018** he has filed an inquiry report in which the allegations against CTD were found incorrect. However, the following statement of Abdul Hafeez quoted in the report dated **18.01.2019** is in favour of the Petitioner. It is reproduced below:-

“Abdul Hafeez r/o H. No.2349 Sector 15/16 Gulshan-e-Mazdoor main Hub River Road stated that I was working in K-Electric as a Sub-Engineer. **On 8th August, 2016 I went to attend rain emergency meeting K-Electric at HRT-I Operation Al-Mawa Centre Shahra-e-Faisal on Motorcycle No.KBY-4734, when I reached at Shahra-e-Quaideen at 02:30 p.m some plain cloth armed person stopped my motorcycle and they called papers of my motorcycle. After that they tied my hands and covered my eyes and took me to some unknown place. On 04.11.2016, CTD Garden shown my arrest with 2 other persons namely Aziz and Tauseef. He also stated about Sameer (missing person) lived in the same area and I had some friendship with him. On 08.08.2016 neither I met Sameer nor I know his whereabouts and he further stated that during his custody in CTD neither he met with missing person nor saw him in lockup of CTD. The allegation of the petitioner that Sameer accompanied with him is wrong.....”**

While drawing conclusion of the inquiry, the DIG, CTD police failed to appreciate that the Petitioner on **08.9.2016**, when Abdul Hafeez was in custody, has alleged that on **08.8.2016** Abdul Hafeez and her son were arrested by CTD police. At least half of her statement was true since Abdul Hafeez in his statement has confirmed that he was arrested by CTD police on **08.8.2016** and after three months he was shown arrested by CTD Garden police on **4.11.2016** along with two others namely **Aziz** and **Tauseef**. Abdul Hafeez has also confirmed the statement of Petitioner that he is a friend of the missing son of Petitioner. The DIG, CTD police in his inquiry report has ignored the above quoted statement of Abdul Hafeez. Obviously this main allegation cannot be

admitted by CTD police in black and white. However, enough incriminating material is there in the statement of Abdul Hafeez against CTD Police. Be that as it may, at this stage we do not want to divert our attention to any other issue, and we have to go forward to ensure respect for the constitutional guarantees under **Article 4, 9 and 14** for the missing son of the Petitioner.

DSP/IO Syed Ali Anwar Shah, during the last eight months being the incharge of this case, has not followed any of the requirements of the SOP for investigation of missing persons. Likewise, all the earlier DSPs, namely, Niaz Hussain Khawaja, Syed Hubdar Ali Shah, Safdar Ali Shah and Ali Anwar Shah have not conducted the investigation in accordance with the basic principles of investigation. To quote one example, it is enough that till date none of them has contacted the owner of Star Line Coach to find a clue of the whereabouts of the missing person if he was not unlawfully arrested by CTD police. The allegation of the Petitioner that the missing person has been unlawfully arrested by the CTD police is not totally devoid of any truth. In any case to recover the missing son of the Petitioner who has been mysteriously taken away by some agencies is the responsibility of the police and counter terrorism police (CTD) is also equally responsible since the Petitioner's allegations find credibility from the statement of Abdul Hafeez quoted by the DIG, CTD in his report, therefore, only for the time being we are not passing any orders on the aspect of taking away of missing person by CTD police. However, at this stage, for the willful failure of I.Os we direct the SSP or whoever is the authorizing officer to start disciplinary action against the various Investigation Officers namely, **Niaz Hussain Khawaja, Syed Hubdar Ali Shah, Safdar Ali Shah and Ali Anwar Shah**, though the last named I.O has reportedly been transferred last night and the investigation was assigned to newly appointed DSP/IO, Jameel Akhtar Bangash, who assured us that the investigation and inquiry for recovery of the

missing person/ son of the Petitioner who is allegedly picked up by the CTD police would not only be impartial but fruitful. The disciplinary action against above named police officers should be initiated within fifteen days under intimation to this Court through MIT-II for perusal in Camber and the disciplinary proceedings should be concluded within three months and the final report may also be sent to this Court through MIT-II.

By the next date of hearing if the missing person is not recovered, we will be constrained to order for registration of FIR by name against each one of the above named I.Os/DSPs for destroying the evidence and/or deliberately not collecting the possible evidence to favour the accused party. We will also order for registration of FIR against the officials of CTD who have unlawfully arrested Abdul Hafeez on **8.8.2016** and kept him in their illegal custody till **4.11.2016** prior to showing him involved in some case by Garden CTD police as stated by him and noted by the DIG, CTD police in his report reproduced above. Abdul Hafeez and CTD police both would be required to account for each day of life of Abdul Hafeez between **8.8.2016** and **4.11.2016**.

Adjourned to **16.10.2020**.

J U D G E

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Gulsher/PS