

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D –1297 of 2021

Mst. Nadia

Versus

The Inspector General of Police Sindh and 04 others

Date of hearing &

Decision : 22.02.2021

Mr. Qaim Ali Memon, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. – Through the captioned Constitutional petition, the petitioner has sought the following relief(s) :

- i. To direct respondents No.1 & 2 to conduct the departmental inquiry and record the statement of the petitioner along with her witnesses. Suspend Respondent No.4&5 from their official posting till finalization of departmental inquiry.*
- ii. To direct respondent No.1&2 to take departmental action against the illegal act of respondent No.4 & 5, as being police officials they have broken the law.*

2. Mr. Qaim Ali Memon, learned counsel for the petitioner, has submitted that on 30.01.2021 at about 02:30 a.m. the police officials/respondents 4 & 5 transgressed their power and authority by barging into the house of the petitioner, maltreated the family members, without any warrant of arrest; and, attempted to molesting the dignity of the petitioner. He further states that he has approached before this Court for direction to the respondents 1 & 2 to hold a departmental inquiry against respondents 4 & 5 for committing a cognizable offense. Per learned counsel, they moved various applications to the competent authority but to no avail, hence the petitioner has approached this Court for the aforesaid relief.

3. Heard learned counsel for the petitioner on the maintainability of the instant petition and perused the material available on record.

4. *Prima facie*, the dispute between the parties is of criminal side and the same has to be taken care of by the competent Court of law as discussed in the preceding paragraph. At this stage, learned counsel for the petitioner intervened

and argued that the private respondents are causing harassment to her, and her family members, therefore, the immediate indulgence of this Court is required in the matter.

5. We are not in agreement with the contention of learned counsel for the petitioner on the aforesaid plea, however, respondents 4 & 5 being Assistant Sub-Inspector and Head Constable in the Police Department are/were not required to indulge in such kind of alleged actions and take advantage of police uniform. Moreover, Petitioner's prayer to direct the police officials to conduct a departmental inquiry against them, prima facie this assertion can also be looked into by the respondents 1 & 2 if approached, and this Court is not a position to thresh out the accusations against the private respondents, thus petition is not maintainable as no ostensible evidence about any harassment being caused by the police officials to the petitioner has been substantiated to justify interference by this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the allegations prima facie show that rather a cognizable offense was allegedly committed by the respondents 4&5 and for that the petitioner is required to approach the learned Sessions Judge/Justice of Peace having jurisdiction to try and entertain the application under section 22-A & 22-B Cr. P.C. which if filed the same shall be entertained and decision be taken under the law within a reasonable time.

6. Prima facie, the prayers made hereinabove are hit by the law laid down by a Division Bench of this Court in the case of Abdul Hameed and others v. Province of Sindh, Secretary Home Department, and 08 others, PLD 2019 Sindh 168. This petition is not maintainable, however, the petitioner may avail her remedy before the competent Court of law for the aforesaid purpose.

7. In view of the above, this petition stands disposed of in the above terms along with pending application(s) with no order as to costs.

J U D G E

J U D G E

Nadir*