

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D-1813 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

30.10.2019.

Mr. Ahmed Ali Jarwar, advocate for petitioner

Mr. Muhammad Ismail Bhutto, Addl.A.G.

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The petitioner by way of instant constitutional petition has sought for quashment of FIR crime No.113 of 2014 under Section 395 PPC of PS Sakrand District Shaheed Benazirabad mainly for the reason that it is lodged against her and others by the private respondent with ulterior motives.

2. It is contended by learned counsel for the petitioner that the private respondent in order to deprive the petitioner of her legitimate right in property left by her late husband has involved her and her associate in a false case, the FIR whereof is liable to be quashed. In support of his contention he has relied upon case of ***Tehmina Shahzad*** and another vs ***S.H.O Police Station Noor Shah District Sahiwal*** and 6 others (***2009 MLD Lahore 1090***) and ***Ghulam Qadir Faraz alias Babar vs Station House Officer, Police Station Saddar Kamoke*** and 2 others (***2012 P.Cr.L.J 638***).

3. It is contended by learned A.A.G that the police has got legitimate right to investigate a cognizable case. By contending so, he sought for dismissal of the instant constitutional petition.

4. We have considered the above arguments and perused the record.

5. The FIR of the incident has been lodged promptly within shortest possible time. It is relating to robbery of motorcycle etc. None of the accused involved in the above said incident except petitioner has come forward to seek quashment of said FIR, which prima facie indicates that except petitioner, all the accused involved therein have accepted the registration of FIR against them. There may be a dispute between the petitioner and the private respondent over the property but such dispute may not be a reason with the private respondent to involve the petitioner and others in a false case of robbery. If the petitioner or her associates are having a feeling that they are being involved in a false case by the private respondent, then they could prove their innocence before the police by joining the investigation. In these circumstances, it would be unjustified to deny the police its right of investigation by ordering quashment of FIR, in exercise of constitutional jurisdiction under the pretext that it is lodged against the petitioner by the private respondent with ulterior motives only to settle his dispute with the petitioner over the property.

6. The case law, which is relied upon by learned counsel for the petitioner is on distinguishable facts and circumstances. In case of ***Tehmeena Shahzad (supra)*** in that case FIR was quashed when abductee did not support the allegation of her abduction. In the instant case, none is abducted. In case of ***Ghulam Qadir Faraz alias Babar (supra)*** the FIR was quashed when it was found by the Honourable Court

that a house was raided by the police under the garb of being brothel without obtaining search warrant or associating any independent person to witness the search. In the instant case, no issue of search of house as brothel is involved.

7. Pursuant to above discussion, instant constitutional petition fails and it is dismissed accordingly.

JUDGE

JUDGE

Ahmed/Pa,