

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Misc. A. No.S- 30 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For order on urgent application (M.A- 497 of 2020).
2. For orders on office objection.
3. For orders on exemption application (M.A-498 of 2020).
4. For hearing of main case.
5. For orders on stay application (M.A-499 of 2020).

27.01.2020

Mr. Ashfaque Ahmed A. Solangi, Advocate for the Applicant.

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1. Urgent application granted.

2 to 5. It appears from the record that Applicant / complainant Muhammad Jafar lodged F.I.R. being Crime No.142 of 2019 at Police Station Bhan, under sections 324, 337-H(ii), 440, 147, 148, 149 PPC against the Applicant and others, which was duly investigated by I.O of the case, who after concluding the same submitted report in terms of section 173 Cr.P.C before the learned Magistrate, who while concurring with the same accepted it; however, since section 324 PPC is exclusively triable by the Court of Sessions, therefore he forwarded the matter to learned Sessions Judge concerned for proceeding in accordance with law.

It is stated by learned counsel for the Applicant that case against the Applicant is false and has been registered due to political enmity. He further submitted that no such incident had taken place in the fashion as alleged as according to him, nobody has received any scratch / injury during such incident; however, the local police under the garb of this F.I.R, is harassing the Applicant as well as the others who are nominated in said F.I.R.

Heard learned counsel for the Applicant and perused the record.

It is an admitted fact that after due investigation, final challan / report u/s 173 Cr.P.C. was submitted before the concerned Judicial Magistrate, who while taking cognizance in the matter accepted it; however, since offence under section 324 PPC is triable by Court of Sessions, therefore, he forwarded the matter to learned Sessions Judge for proceeding as per law. During

course of arguments, I have specifically asked question from learned counsel for the Applicant as to how this criminal miscellaneous application is maintainable when concerned Magistrate / trial Court has taken cognizance in the matter and the only remedy available to Applicant is to knock the door of the trial Court for redressal of his grievance, if any; he has no satisfactory answer with him. At this juncture, Mr. Shahid Ahmed Shaikh, learned D.P.G, who is present in Court in connection with other matters, waived the notice of instant application and submits that in view of the dictum laid down in the case reported as **PLD 2013 S.C 401** this criminal miscellaneous application is not maintainable and liable to be dismissed.

Facing with this situation, learned counsel for the Applicant does not press this criminal miscellaneous application, which is accordingly dismissed alongwith miscellaneous applications listed at serial No.3 and 5. However, the Applicant would be at liberty to knock the door of competent forum / trial Court for redressal of his grievance and on filing such proceeding the trial Court shall decide the same as per law.

JUDGE

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