

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-7676 of 2017

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

Mst.Raheeman..... Petitioner

Versus

C.J. & J.M. and others. Respondents

Date of Hearing: 03.02.2020

Date of Decision: 03.02.2020

Petitioner in person.

Ms. Naushaba Haq Solangi, AAG.

Mr. Ali Haider Saleem DPG a/w DSP Aurangzeb.

ORDER

IRSHAD ALI SHAH, J:- The facts in brief necessary for disposal of instant petition are that the petitioner lodged an FIR bearing Crime No.90 of 2015 under section 341, 342 & 395 P.P.C. with P.S.Bhitt Shah, after having a recourse under section 22-A & 22-B Cr.P.C. It was recommended to be disposed of by the police under "B" Class and such summary was approved by learned Civil Judge and Judicial Magistrate, Hala vide his order dated 13.01.2016 with initiating the proceedings under section 182 PPC against the petitioner, which is impugned by the petitioner before this Court by way of filing the instant petition with a prayer to direct learned Trial Magistrate to take cognizance of the incident and terminate the proceedings under section 182 PPC against her.

2. It is contended by the petitioner that learned Trial Magistrate ought not to have accepted the police report for disposal of her FIR

under "B" Class as such recommendation was made by the police on the basis of dishonest investigation, by way of impugned order same being illegal is liable to be set aside with direction to learned Trial Magistrate to take cognizance of the offence against proposed accused on her FIR.

3. Learned AAG and DPG for the State by supporting the impugned order have prayed for dismissal of the instant petition by contending that on consecutive investigation which was conducted even at the instance of this Court nothing has been found in favour of the petitioner, which may justify reversing the impugned order. However, it was suggested by them that they would be having no objection, if the disposal of the FIR of the petitioner is converted from "B" to "C" Class putting the petitioner at liberty to file a direct complaint of the incident before the Court having jurisdiction, if so advised.

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

5. Admittedly, the FIR of the incident has been lodged by the petitioner with the delay of about four months that too after having a recourse under section 22-A & 22-B Cr.P.C. Such delay in lodgment of FIR could not be overlooked. On investigation the FIR so lodged by the petitioner was found to be false and recommended by the police to be cancelled under "B" Class and such recommendation has been approved by the Magistrate having jurisdiction by way of impugned order, which is not found to be illegal or perverse to be interfered with by this Court in exercise of its constitutional jurisdiction.

6. Nothing has been found in subsequent investigation, which is conducted by the police at the instance of this Court. However, as suggested by learned AAG and DPG for the State, the disposal of the FIR so filed by the petitioner is converted from "B" to "C" Class and the petitioner is put at liberty, if so is advised may file direct complaint of the incident before the Court having jurisdiction, which however, shall be subject to all just exceptions.

The instant petition is disposed of accordingly.

JUDGE

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2. It is contended by the petitioner that learned Trial Magistrate ought not to have accepted the police report for disposal of her FIR under “B’ Class as such recommendation was made by the police on the basis of dishonest investigation, by way of impugned order same being illegal is liable to be set aside with direction to learned Trial Magistrate to take cognizance of the offence against proposed accused on her FIR.

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