

- d) Filing of the instant Petition and orders passed therein shall not adversely prejudice the service matter/career progression of the Petitioner's husband.

2. As regards the Petitioner's apprehension that harm may be caused to her children and/or her reputation may be tarnished by Respondents No.3 to 5, the worthy Director General, Pakistan Rangers, shall on 13.10.2011 at 12 noon hear the Petitioner sympathetically and ensure all appropriate measures to allay her such apprehension.

At this point, the Petitioner again expresses apprehension that above order may not be complied with. Although it needs no mention that in such an eventuality the Petitioner may file an appropriate application. We, however, in order to remove her anxiety, observe that in case the above order is not complied with, the application that may be filed shall be decided on its own merits."

Thereafter, applicant filed FIR against Rangers Officials with regard to abduction and wrongful confinement of her husband. Besides, she preferred direct complaint with regard to outrage of her modesty; FIR was investigated thrice and learned Magistrate disposed of the same in "C" class by different orders; order dated 29th April 2014, which was impugned in CrI. Misc. Application No. 161 of 2014 that was disposed of by order dated 12.11.2014. Being relevant last paragraph is reproduced herewith:-

"Thus looking to the report under section 173 in 'C' Class which has been approved by the learned Judicial Magistrate seems to me require no interference to the extent of investigation conducted by the police in the matter of applicant's husband, however, in the report under Section 173 Cr.P.C., the aspect as to the harassment alleged by the applicant lady having not been investigated nor the learned Judicial Magistrate has applied his judicial wisdom to this aspect, therefore, the order to the extent of approval of report with regard to the petitioner's allegation pertaining to her husband's detention having been brought in the police investigation with which the learned Judicial Magistrate seems to be satisfied do not call for the next part of investigation which seems to have not been carried out in proper perspective regarding the harassment meted out to the applicant lady, the order is set aside with direction to the learned Judicial Magistrate to order to police authorities to inquire to the allegation of the applicant particularly in respect of harassment falling under Section 509 PPC fairly and justify and the applicant be provided chance to bring forward evidence against undisclosed persons before the police during the course of fresh investigation whereupon the report under Section 173 Cr.P.C. be submitted before the concerned Judicial Magistrate who is directed to dispose of the same in accordance with law keeping in view the essence of

Section 509 PPC. The order learned Judicial Magistrate is partly set-aside to the extent of modification as above.”

4. By above order with regard to abduction and illegal detention order of the Magistrate was maintained. However, with regard to harassment applicant was set at liberty to submit fresh evidence with the police official, thereafter subsequent report was filed under Section 173 Cr.P.C that was also disposed of by order dated 14.04.2018. For the sake of convenience relevant paragraph of that order is that:-

“Perusal of record shows that complainant Mst. Nasreen Iqbal filed complaint for the same offence regarding similar allegations against the accused persons, which could not be established due to lack of substance and insufficient evidence after preliminary inquiry conducted by the Court. The complainant has failed to produce any sustainable evidence in support of her allegations at the time of further investigation of the subject FIR. Moreover, complainant has failed to bring on record any substance in support of her allegations that accused persons uttered any words, made any sound or gestures, exhibited any object which was seen by complainant or conducted sexual advances for insulting modesty of complainant or causing sexual harassment. Lastly, it appears that there is dispute between husband of complainant and other rangers officials over departmental affairs, which is also reflected from the entire investigation of subject FIR.

In light of the cumulative discussion regarding the allegations of complainant contained in direct complaint filed by her for the same offence and the investigation conducted by I.O in FIR No. 182/2013 of P.S. Jamshed Quarters, I am of the view that the allegations of complainant in subject FIR also lacks substance and insufficient material is available to constitute offence punishable under Section 509 PPC or to take cognizance of any other offence against accused persons. I therefore, classify instant final report of Section 173 Cr.P.C. under “C” Cancelled instead of “A” Class submitted by the third I.O. PI Muhammad Ali Marwat. The First information Report No. 182/2013 of P.S. Jamshed Quarters stands cancelled and SHO of P.S. Jamshed Quarters is hereby directed to cancel the subject FIR as per police rules.”

The above referred order is in question in Cr. Misc. Application No. 400 of 2019 here as well as Criminal Misc. Application No. 198 of 2018 and challenges order dated 14.04.2018 whereby direct complainant was dismissed under Section 203 Cr.P.C. Being relevant operative part of that order is that:-

“This statement of complainant does not inspire conscience of the Court. This is reflected from the demeanor while recording her statement, wherein she admitted her inimical terms and pending litigation with Rangers Authorities by stating that guards at Rangers 50 Wing Karimabad taunted her that she feels pleased to file cases against Rangers. The relationship of complainant's husband Muhammad Iqbal with other officials of Pakistan Rangers is also strained on departmental transfer issues. Witness Muhammad Iqbal also stated about his strained terms by other officials in his statement, before the Court, wherein he deposed on oath that his ACR was recorded in adverse and he was transferred to 71 Wing Muzaffar Colony, Landhi. Such deposition of witness Muhammad Iqbal clearly manifests that there was some ongoing dispute between him and other officials of Pakistan Rangers regarding departmental issues. Witness namely Muhammad Iqbal is not the eye witness of the incident as alleged by complainant and he did not depose anything regarding the illegal acts of proposed accused in insulting the complainant or causing sexual harassment to her. Further, the complainant has failed to nominate proposed accused with specific roles in insulting her modesty or causing sexual harassment during her statement before the Court. Witness namely Hafsa Iqbal, who claims to be with the complainant at the time of occurrence of alleged incident also failed to attribute the specific roles to any of the proposed accused persons.

Further, there are several contradictions in the statements of complainant Mst. Nasreen Iqbal and her daughter Hafsa Iqbal regarding the alleged incident dated 12.04.2012 as complainant deposed in his statement that she saw two persons at Lasbaila Bridge, whom she saw at PS Jamshed Quarters as well but the Rikshaw driver changed the way and took Rikshaw towards Liaquatabad side, whereas on the contrary, witness Hafsa Iqbal deposed in her statement that at Lasbaila Bridge, the two persons stopped the Rikshaw and one of them pull out his pistol. Witness Hafsa Iqbal also deposed in her statement that while they were chased by few persons on car at North Nazimabad, the Rikshaw driver asked them to hide behind the trees and pretended himself to be sleeping, while no such circumstances have been deposed by complainant in her statement.

Further while analyzing the statement of -complainant Mst. Nasreen Iqbal in light of Section 509 of Pakistan Penal Code, it appears that complainant has only leveled allegations upon personnel of F.S wing of rangers for chasing her and she has not claimed that the said F.S. wing personnel uttered any words, made any sound or gestures, exhibited any object which was seen by complainant or conducted sexual harassment. The evidence of complainant Mst. Nasreen Iqbal and witness Hafsa Iqbal are unclear, vague in nature and the allegations leveled by complainant in her statement before the Court does not constitute offence punishable under Section 509 of Pakistan Penal Code or any other offence to take cognizance against proposed accused persons.

Lastly, prima facie it appears that there is some dispute of husband of complainant (Muhammad Iqbal) and proposed accused over some departmental affairs and complainant has filed instant direct complaint in order to achieve advantageous position. I do not

filed any substance in the allegations leveled by complainant against proposed accused persons and cannot be believed for the purpose of taking cognizance. Therefore, the instant direct complaint is dismissed U/S 203 Cr.P.C.”

5. Applicant and her husband have emphasized over impugned orders as well as applicant’s husband also emphasized on ingredients of section 509 PPC with the plea that ingredients of sexual harassment are very much available in the evidence as brought on record. However, learned Magistrate, per them, failed to dispense the justice due to extra-ordinary reasons.

6. In contra, counsel for Pakistan Rangers as well as learned APG contend that since order dated 12.10.2014 is in field therefore this court cannot reopen the case of applicant; with regard to other sections except liberty was provided to submit fresh evidence regarding harassment.

7. *Prima facie*, the order dated 12.10.2014 was never challenged / questioned by the present applicant hence under these circumstances this court is *functus officio* to examine other aspects of this case except those for which matter was left open for investigation; submission of fresh report and *legal* order thereon by learned Magistrate. Needless to add that applicant is liberty to approach the apex Court to the extent that was closed, if she claims aggrieved but can’t get the same re-examined by this Court even while referring to instant *impugned* order.

8. Without prejudice to above legal position, I have examined the available material with regard to fresh evidence; report under Section 173 Cr.P.C and direct complaint. Perusal of the both orders show that no substantial material was found to believe commission / happening of the complained offence s); floating contradictions were rightly looked into as same *badly* hurting to claimed story therefore, the lower Courts rightly found that applicant failed to make out a *prima facie* case of outrage of her modesty despite number of opportunities and repeated investigation (s). The orders are well reasoned and are not open to any interference, hence, captioned Misc. Applications, being without merits, are dismissed alongwith listed applications.

J U D G E