

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
CP D-4989 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on CMA No.26877/2021 (152)
 2. For orders on office objection
 3. For hearing of CMA No.26056/2020 (Contempt)
 4. For hearing of CMA No.21256/2020 (Stay)
 5. For hearing of main case
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27.09.2021

Mr. Muhammad Rafi Kamboh, advocate for petitioners
Mr. Kafeel Ahmed Abbasi, DAG
M/s. Muhammad Nadeem Qureshi and Aamir Raza, advocates for
respondent No.3
Mr. Khalid Rajpar, advocate for respondent No.4

This petition was filed seeking the following relief:

- (i) Declare that acts of official respondent No.3 to 5 are patently malafide, outright illegal, without jurisdiction.
- (ii) Direct officials of respondent No.3 to 5 to act in accordance with law and be restrained from doing anything, they are not permitted by law to do.
- (iii) Restrain respondent No.3 to 5, its officials, workers, assignees and anyone acting on their behalf from calling petitioners unnecessarily, causing them harassment and taking coercive action against the petitioners including their arrest on the allegation of mis-declaration with respect to GD No.KPPI-PP-22291-25-09-2020.
- (iv) Restrain respondents No.3 to 5, its officials, workers and anyone acting on their behalf from taking any purported action against the petitioners on the basis of Goods Declaration No.KPPI-PP-22291-25.09.2020.
- (v) Grant any other relief, which is deemed just and appropriate in the circumstances of the case.

It is observed from a perusal of the prayer clause that the petitioners are seeking a restraint upon the respondents from taking any measures pursuant to allegations of mis-declaration. It is respectfully noted that no restraint may be placed upon the lawful exercise of power by law enforcement agencies, however, if such authority is misused then the petitioners would remain at liberty to seek appropriate remedy. However, it may not be presumed that any future action of the respondents would be devoid of the law. The institution of *harassment* petitions has been disapproved by the august Supreme Court and also by an earlier Division Bench of this Court, since adequate and appropriate remedy remains available even otherwise.

It is brought to our attention that subsequent to institution of the present petition an FIR has been registered against the petitioners. It is imperative to observe that no challenge to the aforesaid FIR is within the ambit of this petition. The petitioners remain at liberty to seek appropriate

remedial measures before the Courts of appropriate jurisdiction, however, no case is made out for the continuance of the present petition.

In view hereof the present petition, along with applications listed at Serial No.1 and 4, is hereby dismissed.

CMA No.26056/2020 is a contempt application, wherein it is alleged that the alleged contemnor has violated the orders of this Court. Pursuant to issuance of notice, the alleged contemnor has tendered an affidavit, which in our tentative view, does not absolve the person from further proceedings.

In view hereof, the office is directed to issue notice to the alleged contemnor to be present in person on the next date of hearing.

Adjourned.

J U D G E

J U D G E

Gulsher/PS