

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Agha Faisal.

Constitutional Petition No.D-551 of 2022

Mst. Hareem Shah @ Fizza Hussain

Versus

Federation of Pakistan & others

**For date of hearing
& order**

: 18.04.2022

Mr. Muneer Ahmed Khan, advocate for petitioner

Mr. Irfan Ahmed Memon, DAG a/w IO Rawaiz, FIA and Aijaz Ali Kalwar
Assistant Director/Legal, FIA

ORDER

Muhammad Iqbal Kalhoro, J:- Petitioner has impugned, in the main, a notice dated 13.01.2022 issued by Federal Investigation Agency ('FIA') Karachi, u/s 160 CrPC requiring her appearance in an Enquiry No.14/2022 before Enquiry Officer on 19.01.2022. She is also seeking directions to respondents to restore her social media accounts, and further to restrain them from freezing her bank accounts and / or arrest her at any Airport in Pakistan while travelling from abroad where she currently is.

2. Petitioner has filed this petition through her attorney as she is not in Pakistan. When this petition was first taken up on 31.01.2022, her counsel assured the court that she would return and join the enquiry, but some interim order restraining FIA from taking any coercive action against her may be passed. Such undertaking was recorded in the order and FIA was restrained from taking any coercive action against her. The case was adjourned to 08.03.2022, but petitioner by that time did not return. Her counsel informed the court that she was undergoing some treatment in Turkey. In support, a photostate copy of a certificate written in Turkish language, which was neither understandable to the court nor to the learned defence counsel himself was filed. But, in any case, as an indulgence, the case was adjourned to 18.04.2022 only after learned counsel asserted that by 15th April, the petitioner would be back in Pakistan and join the enquiry. However, today again, learned counsel for the petitioner has made a

statement that petitioner has gone to Saudi Arabia for performing ‘Umrah’ and has not returned to Pakistan. He has not been able to explain as to why despite directions and assurances she did not prefer to return and join the enquiry. On merits, he has submitted that the impugned notice is illegal as petitioner through a video clip has already given explanation of the allegations against her, besides tendering an apology in this regard.

3. On the other hand, learned DAG and IO have submitted that despite undertakings given by petitioner’s counsel and directions regarding her returning to Pakistan and joining the enquiry, she for the last more than 03 months has not obeyed the same. The enquiry has been duly registered and because of non-cooperation of the petitioner has hung up and not proceeding further.

4. We have heard learned counsel for the parties and perused material available on record. The enquiry, after registration, is pending since January, 2022 without any progress owing to petitioner’s absence in the country. Her counsel has been seeking time for this purpose but to no avail. The court with a view to enable her to join the course of law has shown indulgence and granted her time twice but that too has been ignored by the petitioner.

5. Learned counsel for petitioner has failed to persuade us as to how under constitutional jurisdiction, discretionary in nature, this court can intervene in the enquiry proceedings and thwart its course, particularly when petitioner, despite giving undertakings to join the same has apparently failed to do so. The impugned notice has been issued u/s 160 CrPC, which amply empowers the IO to require presence of any person who from information given or otherwise appears to be acquainted with the circumstances of the case being enquired or investigated, and such person, then, has to attend the IO to give a statement. But in this case, petitioner has *prima facie* not only violated requirement of section 160 CrPC, but also her assurances and undertakings given to the court in this connection. Furthermore, she is not in Pakistan and her counsel has no idea of the time she plans to return.

6. In such circumstances and above discussion it is fruitless to keep this petition alive. The petition along with pending application(s) is dismissed accordingly leaving the petitioner, however, at liberty to avail a proper remedy in accordance with law at the time of her return to Pakistan.

JUDGE

JUDGE

Rafiq/P.A.