

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
High Court Appeal No.195 of 2019

Order with Signature of Judge(s)

Fresh Case:

1. For order on CMA No.1467/2019 (Urgent)
2. For order on office objection a/w reply as at "A".
3. For order on CMA No.1468/2019 (Exemption)
4. For hearing of main case.
5. For order on CMA No.1469/2019 (Stay)

26.04.2019.

Syed Ali Ahmed Tariq, Advocate for the appellant.

1. Urgency granted.

2-5. This High Court Appeal has been filed against the order passed by the learned Single Judge in Suit No.419 of 2019, dated 23.04.2019, whereby the application filed by the appellant (plaintiff in the Suit) under Section 94 CPC seeking restraining order against the respondents (defendants in the Suit) was dismissed.

Briefly stated, the facts of the case are that the appellant is having a degree of BBA Honors and MBA Finance from COMSAT Islamabad and at present employed in Sindh Bank Limited, which she joined on 27.06.2014. The appellant was served with the charge sheet dated 01.01.2019 alongwith suspension order dated 04.01.2019 by leveling certain allegations upon her. The reply thereafter was filed but since the appellant was of the view that the respondents are bent upon to draw adverse inference against her thereafter she filed a suit bearing No.419 of 2019 for declaration, permanent injunction and recovery of Rupees one billion as compensation for damages and an application under Section 94

CPC. The matter proceeded before the learned Single Judge who dismissed the application filed under Section 94 CPC after finding that no balance of convenience lies in favour of the appellant rather the same is in favour of the bank. The suit, however, is pending adjudication.

Syed Ali Ahmed Tariq Advocate has appeared on behalf of the appellant and stated that under the garb of the charge sheet and the enquiry the appellant apprehends that she will not get any relief from the bank and the respondents by drawing adverse inference would terminate her service by leveling false allegations upon her. He stated that the proceedings initiated against the appellant were designed to save some big personalities. He also stated that vide para 9 of the plaint the appellant required from the bank to give her certain documents to enable her to furnish a proper reply, which were not provided and it is in this background that on application under Section 94 CPC was filed, which was incorrectly dismissed by the learned Single Judge and now the instant High Court Appeal has been filed. He stated that the learned Single Judge has not considered various aspects going to the roots of the matter and thus the order passed by the learned Single Judge may be set aside.

At the very outset, the learned counsel was directed to satisfy the Court with regard to the maintainability of this High Court Appeal, since when the appellant has joined the enquiry proceedings and has also given a proper reply of the charge sheet issued to her, the application for restraining the respondents from taking any action against her appears to be quite premature. The

counsel states that in absence of the documents required it is not possible for the appellant to give a proper reply, whereas according to the order of the learned Single Judge required documents were provided her to defend her case.

We have heard the learned counsel at some length and have also perused the record.

On the very face of it, the request of the learned counsel for restraining the respondents from proceeding against the appellant appears to be quite premature and not maintainable, since the charge sheet has already been issued to her and enquiry proceedings are also underway and it is incumbent upon the appellant to give a proper reply thereof and to join the said proceedings. It is an admitted position that a reply of the charge sheet has been given by her. We are of the opinion that if any restraining order is passed by this Court at this juncture, the same would definitely hamper the proceedings initiated against her by the bank. In our view, the learned Single Judge has quite elaborately discussed the matter and we find no reason to disagree with the findings of the learned Single Judge. The appellant is, therefore, directed to attend the enquiry proceedings for defending the charges leveled against her. While hearing the instant case, in our view, no findings could be given with regard to the merits or demerits of the charges or whether the enquiry proceedings initiated is in a lawful manner or not, as the proceedings, being a departmental matter, have to be faced by the appellant by giving a proper reply in respect of the charges leveled against her, which could only be washed

away if a proper reply is given by her and at this premature stage restraining the enquiry proceedings would be a defiance of the settled law. The learned Single Judge in his order has discussed various decisions with regard to the fact that whether the matters pertaining to departmental proceedings at the stage of enquiry could be interfered with or not.

Apropos the claim of certain documents as per para 9 of the plaint, it is duly noted by the learned Single Judge that the appellant is avoiding to join the enquiry proceedings herself, hence, we refrain ourselves from giving any view in this behalf at this premature stage but simply note that the appellant is under the legal obligation to give a proper reply of the charges leveled against her and to join the departmental enquiry proceedings, as the learned Single Judge has categorically observed that serious allegations have been leveled against her after an enquiry by the FIA as well as by State Bank of Pakistan. We, therefore, find no defect in the order passed by the learned Single Judge as in our view he has rightly dismissed the application under Section 94 CPC filed by the appellant. This High Court Appeal, thus, is found to be devoid of any merit and is, accordingly, dismissed in limine alongwith the listed applications.

Judge

Judge