

Order Sheet

IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 409 of 2021

Date

Order with Signature of Hon'ble Judge

Fresh case

1. For orders on office objection at flag 'A'
2. For orders on MA No.3376/2021 (Ex.A)
3. For hearing of main case

23.08.2021

Mr. Mehboob Ali Doongah Advocate for the Applicant

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AMJAD ALI SAHITO, J- Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 03.06.2021 passed by learned 1st Civil Judge and Judicial Magistrate, Moro on the Summary Report filed under Section 173 Cr.P.C by the SHO / Investigating Officer Police Station Moro, whereby he has recommended the case arising out of FIR No.01/2021 under Sections 382 PPC to be disposed of under 'B' class, but the learned Magistrate did not agree with the report of the police and disposed of the case under 'C' class.

2. It is contended by learned counsel for the applicant/complainant that the learned Magistrate without hearing the complainant has passed the impugned order in hasty manner, therefore, the matter may be remanded to learned Magistrate for rehearing and passing afresh order.

3. Mr. Shafi Muhammad Mahar, DPG for the State present in Court in connection with other matters, waives the notice of instant Criminal Miscellaneous Application and prayed for dismissal of instant application by contending that the impugned order being administrative in nature is speaking and well-reasoned, hence does not call for any interference by this Court.

4. I have heard the learned counsel for the applicant/complainant, learned DPG for the State and perused the material available on record. Section 173

Cr.P.C provides that whatever material placed before the Magistrate after completing the investigation by the Investigating Officer, the same shall be decided in accordance with law. There is no requirement of law to call the Investigating Officer or the complainant of the case. The learned Magistrate has rightly converted the disposal of the case from 'B' to 'C' class, therefore, in such circumstances, the impugned order dated 03.06.2021 does not call for any interference by this Court, the same is hereby maintained. Consequently, the instant Criminal Miscellaneous Application is dismissed along with pending application. However, the applicant/complainant is at liberty to avail his remedy by filing direct of the incident, if so advised.

Judge

ARBROHI