ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Rev. Application No. 16 of 2021

Date Order with signature of Judge

- 1. For orders on M.A. No.777 of 2021 of 2021 (U/A).
- 2. For orders on M.A. No. 778 of 2021 (Ex/A).
- 3. For hearing of main case.

29th January 2021

Mr. Arsalan Wahid, advocate for applicants.

Heard learned counsel for the applicants.

It would be conducive to refer relevant portion of the impugned order, which is that:-

"The main contentions of complainants are that their mother was not properly maintained by the accused persons at their residence, not properly treated in renowned hospital and due to their negligence their mother was died, but complainants have failed to prove such contentions by not producing any independent witness, who had seen the accused persons while mis-behaving with their mother during her life time. The accused Mst. Rukhsana, who examined as witness in this case has also stated in her statement recorded U/s 202 Cr.P.C that she alongwith accused Aslam took her mother to the clinic of Dr. Nasir Mahmood Kiyani (accused No.11) for the purpose of medical checkup, where doctor advised him to admit in hospital. She further stated that they also took her mother to Badva hospital. The complainants and Mst. Rukhsana forced the remaining respondents/accused person to admit their mother in Agha Khan hospital, but their both brothers could not take her to Agha Khan hospital as they cannot afford their charges. Finally the mother of complainants and accused persons shifted to Agha Khan hospital where doctor took the test of corona virus, but she had expired there, which shows that accused persons tried to their level best for providing best medical facility to their mother during her life time. The respondent/accused No.11 whose statement has been recorded as witness of complainant in the instant petition has stated that in beginning Covid-19 days, in February/March, 2020 Mst. Kulsoom attended his clinic for her medical checkup and complained him of fever, body and joint pain. He has further stated that since covid-19 was on rise, therefore they being doctors were very conscious about this virus, therefore he advised Mst. Rukhsana and Aslam to admit the patient in hospital, therefore they took the patient to hospital and after one week Mst. Rukhsana attended clinic and informed that her mother expired in hospital.

The case of complainants is totally based upon the medical evidence in respect of death of their mother, but complainants have failed to produce any single medical evidence in this regard, even the report of corona virus as the test was conducted by Agha Khan hospital and death certificate of their mother in order to show the cause of death, which shows that complainants have concealed this fact from the court whether the death of deceased was occurred due to coronavirus or some other reason. Perusal of record further shows that death of deceased was occurred on 22.3.2020 and the complainants have filed the instant petition on 9.5.2020 but during this period neither complainants lodged the FIR against the accused persons nor moved any application before concerned JM for exhumation the grave of their mother in order to ascertain cause of death, but they simply put the responsibility of death of their mother upon the shoulders of accused persons, who are their close relatives. The complainants have also taken plea that their mother took silver, gold ornaments and heavy case with her to the house of accused persons has no force as she was owner of the said articles and had a right to give them to anyone else. The complainants have also failed to file any SMA before the court in respect of properties if any left by their deceased mother."

Perusal of above reflects that sisters seeking FIR of murder case against their brothers with the plea that due to their acts, mother of accused and applicants died, whereas medical history reflects that she died due to covid and was of advanced age, thus, no cognizable offence is made out, hence, instant revision application is dismissed alongwith pending applications.