

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Cr. Misc. Appln. No.81 of 2021.**

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Date	Order with signature of Judge
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1. FOR ORDER ON OFFICE OBJECTION AS AT 'A'
  2. FOR HEARING OF MAIN CASE
  3. FOR HEARING OF MA NO.1791/2020
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**12<sup>th</sup> April 2021**

Mr. Ayaz Ali Chandio, advocate for applicants  
Mr. Muhammad Daud Narejo, advocate for respondent No.2  
Mr. Fahim Hussain Panhwar, DPG Sindh

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Learned counsel for applicants while relying upon case-laws reported in 1997 MLD page 2097 and 2004 YLR page 830, has challenged the maintainability of order dated 20.3.2020. Learned counsel for applicants *inter-alia* contends that the directions given by the District and Sessions Judge with regard to verification of Sale Agreement dated 21.09.2017, which is sub-judice before Civil Court, is contrary to the law. District and Sessions Judge while deciding the Cr. Revision No.05/2019 was not competent to pass such directions.

Before proceeding further, it would be conducive to refer relevant para of impugned judgment which reads as:-

*“After hearing the learned counsel of both the sides at length, I have considered the submissions made before me and have consulted the law on the subject, gone through the reported dictums cited by the learned counsel for the applicant side in the revision.*

*From the perusal of record, it appears that the accused had moved his bail application through his learned counsel before the trial Court with annexed stamp paper No.467228 of Rs.300/- regarding sale agreement and report was called which reflected that stamp paper of Rs.300/- bearing No.467228 had issued to one Muhammad Arshad Chohan, Stamp Vendor being license holder No.27 on 04.5.2017 as per sale register of above Stamp Vendor, Serial No.42278 did not exist. Besides that, the alleged sale agreement of the Stamp Vendor, Serial No.42278 dated 25.09.2017 did not exist and **the said stamp paper was attested by Haji Moin Ahmed who had passed away on 04.07.2017.***

*Upshot of the above position, the attesting of alleged agreement Moin Ahmed had already passed away from the mortal world as per the report of concerned corner, therefore I am of the humble opinion that signatures of the parties are required to be verified from the concerned corners (experts) and if the same is found to be fabricated and offence of perjury was committed on the part of offender then the Court of law is competent to take cognizance of the commission of offence of perjury in*

*the light of case law reported in PLD 2013 Sindh 194, Re: Mst. Maryam Hayat v/s Ahemd Saroosh & 2 others. In these circumstances, I am of the humble also opinion that the order of learned Judicial Magistrate is required to be interference and same is hereby set aside as the instant revision application is allowed accordingly with direction to the learned trial Court to send the alleged sale agreement to the handwritings expert for the verification of the signatures of the applicant and its witnesses then the submitted application of applicant through the learned State counsel be decided as fresh one after hearing the parties under the scheme of law for taking cognizance in reflection of case law reported in 2017 CLC 1731 Lahore, Re: Muhammad Mukhtar and 4 others v/s Mst. Zubaida and 2 others wherein it was held in placitum (e) as under:-*

*“...Production of false and forged document by a party in a court---Judicial Officer having found a document to be result of fraud and forgery could have taken suo motu cognizance for committing forgery by the party---High Court observed that if such action was not initiated by the court at appropriate time, other party could approach the concerned quarter for initiating criminal proceedings against the delinquents.”*

*Prima facie*, the above order appears to be within four corners of **objective**, so insisted in referred case which was / is aimed to deter the acts of producing false and forged document (s) so as to keep rightful away from their rights to have *timely* justice. I am unable to understand as to what harm shall fall upon the applicant if the document is sent to *hand-writing expert* which, a Court, can competently order. The law does not put any restriction upon the Criminal Court (s) from getting such *help* from the expert (s). Be that as it may, the order makes it clearly that even after such verification things shall not change but *then the submitted application of applicant shall be decided afresh* which, too, after hearing the parties. This document is, *undeniably*, placed on record so as to form a view of the Court therefore, the Court can *competently* get the same verified so as to reach a just conclusion onto effect (s) of such document. The referred case laws, respectfully added, relate to question of taking cognizance within meaning of Section 195 Cr.PC which, *prima facie*, is not the issue in the instant matter. Accordingly, instant Cr. Misc. Application being not maintainable is dismissed.

J U D G E