

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P. No.D-1152 of 2021

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objections.
For hearing of M.A. No.5242/2021.
For hearing of M.A. No.5243/2021.
For hearing of main case.

11.04.2023.

Syed Tarique Ahmed Shah advocate for the petitioners.
Mr. Muhammad Ismail Bhutto, Additional Advocate General.
Mr. Abdul Waheed Bijarani Assistant Prosecutor General.
ASI Sikandar Ali P.S. Lakhat.

ORDER

MUHAMMAD IQBAL KALHORO, J:- FIR No.04/2021, u/s 302, 506(ii), 109 PPC, at PS Lakhat was registered against, among others, petitioners. In the investigation no evidence was found against them and they were let off by the I.O. When such report was submitted before the Magistrate concerned, he disagreed with the report of the IO and took cognizance of the offence against all including the petitioners. The petitioners aggrieved by such development filed an application before DIG Shaheed Benazirabad for reinvestigation of the matter. A copy of which was endorsed to SSP Shaheed Benazirabad. SSP, acting on that application marked the same to DSP for further investigation. DSP in due course of time submitted a preliminary report to SSP recommending for reinvestigation, however, thereafter no action was taken and, therefore, petitioners have filed this petition.

We have heard learned counsel for the parties at some length and perused the material available on record. Learned counsel for the petitioners has admitted that presently the matter is pending before learned Model Court Shaheed Benazirabad and even the charge has been framed. When we inquired from him as to whether he has sought any permission from the trial Court for reinvestigation or further investigation of the matter, he has replied in negative. We are

of the view that although after submission of Challan further investigation or reinvestigation can be conducted. But the same cannot be adverted to on the back of the trial Court, seized with trial, without seeking its permission. For, the chance is that in case reinvestigation is conducted on back of the trial Court or without seeking its permission, its report, if any, may or may not be accepted by it, and it would not be binding upon it, or even it can refuse to act on it. But if reinvestigation or further investigation is conducted with the permission and in full presence of the trial Court, the reinvestigation report could be accepted by it, and there subject to all exceptions would be no occasion for it to not act upon it.

Learned counsel for the petitioners confronted with the same has agreed to not press this petition and to file an application before the trial Court first in pursuance of their application to SSP for reinvestigation, seeking its permission for reinvestigation. If and when such application is filed before the trial Court by the petitioners, the same shall be entertained by trial Court in accordance with law and it shall immediately dispose it of on merits. Accordingly, the petition is disposed of in the above terms.

JUDGE

JUDGE