

**IN THE HIGH COURT OF SINDH
BENCH AT SUKKUR**

Crl.Rev.Appln.No. S - 29 of 2023.

- 1.For orders on o/obj.at Flag.A.
- 2.For Hearing of main case.

16.10.2023.

Mr.Ameenuddin Khaskheli, Advocate, for the Applicant.
Mr.Khaleel Ahmed Maitlo, DPG.

ORDER

The Applicant seeks to impugn the charge framed against him by the 1st Additional Sessions Judge (MCTC), Naushahro Feroze, on 14.03.2023 in Sessions Case No.100/2023, under Sections 302, 311, 201, PPC.

Proceeding with his submissions, learned counsel submitted that whilst the Applicant had been present at the time when the charge was framed, he was not represented by counsel on that date. He argued that as the charged offence carried the possibility of capital punishment, the exercise necessarily had to take place in the presence of counsel. He sought that the charge be set aside so as to be framed afresh. However, on query posed as to whether the charge was otherwise defective in any respect or whether the Applicant had been prejudiced in any manner, he responded in the negative on both scores. A perusal of the pleadings reflects that no such assertion has even been made. Under such circumstances, no case for interference stands made out. Indeed, in the Judgment of a learned Division Bench of this Court in the case reported as Altaf Hussain v The State 2012 P.Cr.L.J 550, which also pertained to a case under Section 302, PPC, precisely such an objection had been raised, with it being argued that the charge had been framed on a date when no Advocate had appeared on behalf of the appellant. That objection was dispelled, with it being observed as follows:-

“First contention of Mr.Malano was that at the time of framing of charge the appellant was not represented by a counsel and Advocate was for the first time provided to the appellant by the trial Court on 2-4-2009 and evidence of P.Ws was recorded on the same day. A perusal of record and proceedings reveals that though the Advocate was appointed on the same day and examination-in-chief of the P.W.1 was recorded on the same day, however, after recording the examination-in-chief the matter was adjourned to 7-4-2009 when the witness was recalled and cross-examination was conducted. The learned counsel for the appellant in the Court below has not at all objected to recording of examination-in-chief on the day when he was appointed for the first time and nowhere contended that the appellant has been in any way prejudiced in his defence by lack of representation through a counsel on the day when the charge was framed. Since no such miscarriage of justice has been pleaded by Mr. Malano and is not discernible from the record and proceedings of this case, the contention of the learned counsel is, therefore, without any substance.”

The instant revision is thus found to be misconceived and stands dismissed accordingly.

JUDGE

Akber.