

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Revision Application No.95 of 2021

Date	Order with signature of Judge
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For order as to maintainability of criminal revision application
(As per order dated 25.1.2023)

02.11.2023

Applicant Abbas Raza is present in person
Mr. Muntazir Mehdi, Additional PG

Being aggrieved and dissatisfied with the order dated 26.2.2021 passed by learned VIth Additional Sessions Judge, South in Direct Complaint No.2057 of 2020 filed by the applicant, dismissing the same, the applicant has preferred the instant Criminal Revision Application under section 439 Cr.P.C. An excerpt whereof is reproduced as under:-

"I have heard the complainant in person and gone through the record, as well as his statement under section 200 Cr.PC whereas no witness under section 202 Cr PC was examined complainant. It is alleged in the complaint that respondent No 1 Mst Ambareen Zehra (ex-wife complainant) filed Cr. Misc Application No 414/2020, under section 491 Cr PC in District and Court, Karachi, South, against complainant Abbas Raza that he had forcibly taken the d (Syeda Sakina Fatima) and he extended life threats She further mentioned in the petition minors are in the custody of complainant. The complainant in his complaint has that his minor daughter Syeda Sakina Fatima was in hospital. He took her to the hospital for treatment, whereas his minor daughter Syeda Kubra Fatima was also not in his custody. From the record, it reflects that said application was disposed of as withdrawn. It is alleged that respondent No. 1 with respondents No 2 and 3 by conspiracy malice and illegal act court without clean hands filed said a petition against the complainant, with false allegations of an irresponsible, cruel, and psycho patient habitually beating and maltreating her, contended that the respondent have destroyed, defamed personality of the complainant had also given false information in the said application.

3. While committing the offense of defamation an accused actually causes an in reputation of a person as he intends to lower down the status of a person in the estima fellow being or within the circle in which said person moved or enjoys a good reputation injury is defined under section 44 PPC which says,

"Section 44. The word "Injury" denotes any harm whatever illegally caused to body, mind, reputation or property.

The complainant in order to proof his contention has failed to produce a single document or examine a witness that he was in fact harmed by the aforesaid proposed accused. In order to prove financial harm, he failed to produce relevant documents such as bank statements, bills, or tax returns to back up his claim, which is the basic requirement in such type of cases, and the same is missing.

5. Besides, the compliance report dated 09-05-2020, submitted in HCP 414/2020 police station Tipu Sultan, does not show that respondent No 1 had mentioned false add said petition. On the other hand, report shows that main door was found locked.

6. Respondent is the ex-wife of complainant. There is family dispute between the respect of custody of their children. The complainant wants to convert family dispute into litigation. It is held in 2010

SCMR 1816 that "Frivolous and vexatious complaint must be their inception, where no prima facie case is made out"

7. In view of above discussion, I am of the considered view that the complainant has been able to substantiate his case for taking cognizance regarding the defaming and reputation of the complainant and his family member in the Honorable Court, Police De General Public and his co-colleagues by the proposed accused, therefore, the private co the complainant is hereby dismissed being devoid of merits."

2. It is inter alia contended by the applicant that learned Additional Sessions Judge has erred in law and facts while deciding the complaint; that such authority is not vested in the Court in terms of Section 200 Cr.P.C. He further submitted that the scope of section 200 Cr. P.C. has been defined by Superior Courts and the applicant has made out a prima facie case for taking cognizance but the trial Court failed to appreciate and dismissed the complaint he prayed for remanding the matter to the trial court for a decision on merits.

3. I have heard the applicant who is present in person and perused the record with his assistance.

4. The entire case of the applicant is based on the assertion that the respondent committed the offense of defamation and caused injury to his reputation however he failed to produce any material evidence before the trial Court to the effect that he was harmed by the aforesaid acts of the proposed accused he only relied upon the assertion that respondent No.1 is his ex-wife and committed the offense. Prima facie it seems to be a family dispute between the parties concerning custody of their children and the applicant insisted on dragging the respondents into criminal litigation. This cannot be allowed under the law as the trial Court has rightly pointed out that frivolous and vexatious complaints must be buried at their inception. In the present case, prima facie no case under Section 24,34,40,43,107,108,109,110,111,112,113,114,182,191,193,199,209,211,499 and 500 PPC is made out as the applicant has failed to substantiate his allegation leveled in the private complaint No. 2047/2020.

5. Keeping in view the above legal positions, I have examined the case and I am of the clear view that the impugned order does not suffer from any illegality and that the instant revision petition is devoid of substance and the impugned order is rightly passed, hence the same is hereby dismissed.

JUDGE