

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. S-845 of 2023

Date	Order with signature of Judge
------	-------------------------------

For directions

23.11.2023

Mr. Sikandar Zulqarnain Unnar advocate for the petitioners
Mr. Rafiq Ahmed Advocate for the Intervenor
Mr. Sharafuddin Jamali AAG
Ms. Rubina Qadir APG
Mr. Muhamamd Yaqoob DPP

The grievance of the petitioners is that official respondents are harassing and interfering in their daily life pursuits, without lawful justification. They also seek direction to take effective action against the respondent No.6/SHO PS Manghopir who is in league with criminal elements and is indulged in criminal activities.

Mr. Rafiq Ahmed Advocate holding brief for Mr. Muhammad Umar Lakhani advocate for the Intervenor has submitted that under the garb of restraining order dated 31.08.2023 the petitioners, who are land grabbers with the help of local police are trying to dispossess the Intervenor from the property. He has further submitted that the Intervenor has also filed Civil Suit No. 1105 of 2023 in which petitioner are also shown as defendants and in order to defeat the very interest of the proceedings of the said case, without making him party in the petition the petitioners in collusion with the local police are attempting to dispossess him. He prayed for the dismissal of the instant petition. The aforesaid instance has been refuted by the petitioners and prayed for allowing the instant petition as prayed.

Prima facie, this is the case of harassment at the hands of police. The meaning of the word "harass" has been explained as "Injure and injury"; these words have numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word "harass" excluding the latter from being comprehended within the word "injure" or "injury". The synonyms of "harass" are: To weary, tire, perplex, distress tease, vex, molest, trouble, and disturb. They all have relation to mental annoyance." In the Oxford Dictionary of New Words, the meaning of the word "harassment" has been explained, which reads as "The subjection of a person to aggressive pressure or intimidation. "Harassment" should be interpreted as potentially producing some unreasonably adverse impact on the victim. The conduct should produce more than "worry", "trouble", "discomfort" or "unease" unless perhaps these are experienced to an extreme degree."

The main objectives of police is to apprehend offenders, investigate crimes, and prosecute them before the courts also to prevent the commission of crime, and above all ensure law and order to protect citizens' life and property.

The law enjoins the police to be scrupulously fair to the offender and the Magistracy is to ensure a fair investigation and fair trial for an offender. Unfortunately, these objectives have remained unfulfilled. Aberrations of police officers and police excesses in dealing with the law and order situation have been the subject of adverse comments from this Court as well as from other courts but they have failed to have any corrective effect on it. The police has the power to arrest a person even without obtaining a warrant of arrest from a court. The plenty of this power casts an obligation on the police and it must bear in mind, as held by this Court that if a person is arrested for a crime, his constitutional and fundamental rights must not be violated."

Learned A.A.G. submits that the petitioners and private parties/Intervenors have already litigated in various courts by lodging criminal as well as civil cases; and he assures that the police shall be natural in the private affairs of the parties and he also ensures that no harassment shall be caused to the petitioners as well as intervenor. His statement is tenable and this petition is liable to be disposed of in terms of the statement of learned AAG; however, it is made clear that if there is any private/ civil dispute between the parties, the same shall be dealt with by the competent court of law/forum and this Court will not travel into that dispute and leave it for the competent forum to redress the same, if approached by the aggrieved party under the law within a reasonable time. As far as police harassment issues are concerned, the DIG West Karachi has to see the matter at his end and take prompt disciplinary as well as criminal action against the police officials who are indulged in criminal activities in connivance with land grabbers and such exercise shall be completed within one month if they are found to be involved in such activities. DIGP West is also directed to check the excess of police officials and their involvement in private affairs/disputes as the Police Officers are required to protect and not abduct.

In view of the above, this petition is disposed of with the direction to the administration of the police to act under the law and no harassment shall be caused to the petitioners as well as the Intervenor and they shall be nutrual until and unless any cognizable offense is reported to them. However, if the petitioners and/or private parties/intervenor are indulged in cognizable offenses police shall act under law swiftly.

JUDGE