

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Misc. Application No. 491 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

1. For orders on office objection
2. For hearing of main case
3. For hearing of MA No. 8500/2023

06-12-2023

Mr. Raj Ali Wahid Kunwar, Advocate for applicant.
Mr. Manzar Bashir, Advocate for respondent No.1.
Mr. Muhammad Iqbal Awan, Addl.P.G.

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The issue in these proceedings is whether Criminal Complaint No. 1 of 2021 has been validly and lawfully filed or not. Learned counsel for the applicant submits that the person who filed the complaint was not authorized to do so and hence the complaint should be dismissed. Learned counsel for the respondent, of course, has a different view.

After arguing for some time, both learned counsels and the learned Additional Prosecutor General agree that the case be sent back to the learned Special Commercial Court for Sindh and Balochistan at Karachi with the directions that the learned trial court itself decides whether the complaint was filed in accordance with section 5B(1)(2) of the Import and Export Act, 1950 or not. In essence, the question of jurisdiction and maintainability has to be decided has a preliminary issue.

The request made by counsels is a fair one. In any case, it should be the learned trial court itself, which in the first instance should decide a jurisdictional issue. The learned trial court shall use its best endeavours to decide the issue expeditiously.

Application stands disposed of in the above terms along with pending application.

JUDGE