

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Criminal Miscellaneous Application No.S-565 of 2023

(Zahid Iqbal Khan v. SSP Hyderabad & others)

1. For orders on MA No.7882 / 2023.
2. For orders on office objection.
3. For orders on MA No.7883 / 2023.
4. For hearing of main case.
5. For orders on MA No.7884 / 2023.

Mr. Shahnawaz Bughio, advocate for applicant.

Date of hearing: **07.08.2023**

O R D E R

ZULFIQAR ALI SANGI, J:- Through this application, the applicant has challenged order dated 04.08.2023, passed by learned Sessions Judge, Hyderabad in Criminal Miscellaneous Application No.343 of 2023 on the application filed by respondent No.2, whereby directions were issued to the SSP Hyderabad to lodge F.I.R. on behalf of State against the SHO of PS Qasimabad (Zahid Hussain Chandio).

2. It is contended by learned counsel for the applicant that no offence whatsoever as alleged is committed by the applicant nor he has arrested the detainees or tortured them, therefore, said order may be set-aside.

3. I have perused the material available on record. It reflects from the documents annexed with this application that earlier Criminal Miscellaneous Application No.343 of 2023 was filed by respondent No.2 Barkat Ali for illegal confinement of his son Ramzan. On such application, Civil Judge & Judicial Magistrate-XI, Hyderabad was directed to conduct the raid and recover the alleged detainees. In compliance of the said order, learned Magistrate has visited the police station and furnished such report before learned Sessions Judge, Hyderabad wherein it is stated that when he entered in the office of duty officer, two persons namely, Ramzan s/o Barkat and Ashique Ali s/o Mir Chakar

were illegally confined in the said room and on inquiry no entry or FIR or other proceedings under section 54 Cr.P.C. were available on record. The learned Magistrate directed the SHO namely Zahid Iqbal Chandio (applicant) to release them after obtaining PR bonds to which he refused to release one of them namely Ashique Ali and who was released by learned Magistrate after obtaining PR bond.

4. It is observed from the impugned order that the detainees were kept in illegal and unlawful detention for a period of two days without producing them before the Court of law. It is further reflected from the said report that both the detainees made complaint to the Magistrate that the police had also brutally maltreated them in the custody, which is gross violation of fundamental rights. Refusal of applicant to comply the orders of learned Magistrate for releasing one of the alleged detainees amounts high handedness, hindrance and disregard of the process of judicial proceedings, which cannot be tolerated especially when interference with freedom of movement, just like putting a person(s) in illegal and unlawful detention without any excuse must not be trivialized. It is worthwhile to mention here that before depriving the detainees of their liberties, the police officer (applicant) had to ensure that there was valid legal justification for his actions but at the time of raid conducted by the learned Magistrate, he was failed to show such legal explanation. In such circumstances, I have found no illegality or irregularity in the impugned order warranting interference by this Court, which is just, proper and in accordance with law. Resultantly, instant criminal miscellaneous application is **dismissed** in *limini* along with listed applications.

JUDGE