

ORDER SHEET
IN THE HIGH COURT OF SINDHI, KARACHI
Criminal Misc. Application No.386 of 2024
(Faisal Vohra v. The State and others)

DATE: ORDER WITH SIGNATURE OF THE JUDGE

1. For order on MA No.4895/2024
2. For order on MA No.4896/2024
3. For hearing of main case

23.05.2024

Mr. Ahmed Hamza Nizamani, advocate for the applicant

1. Urgency granted.
2. Granted subject to all just exceptions.
3. Based on the allegation of robbery coupled with maltreatment, an FIR was lodged by the private respondents with PS Sharifabad Karachi; the same after the investigation was recommended by the Investigating Officer to be cancelled under `C` Class, however, learned IVth-Judicial Magistrate Karachi, Central, took cognizance of the offence vide order dated 21.03.2021, which is impugned by the applicant before this Court by making the instant CrI. Misc. Application under section 561-A Cr.P.C.

It is contended by learned counsel for the applicant that the learned trial Magistrate has taken cognizance of the offence illegally ignoring the police report which was based on an honest investigation; therefore, the impugned order is to be examined by this Court.

Heard arguments and perused the record.

The FIR of the incident has been lodged promptly. The applicant is alleged to have been apprehended at the spot and from him has been affected recovery of certain robbed articles. Whatever is stated by the private respondent in his FIR takes support from the

ancillary evidence, which has been disbelieved by the Investigating Officer without lawful justification recommending the disposal of the subject FIR under `C` Class, ignoring the fact that the burden to make out a case for cognizance is light which could never be equated with burden to prove the case at trial. It is settled by now that the opinion of the police has got no binding effect on the Courts. In these circumstances, the learned trial Magistrate was right to take cognizance of the offence based on material brought before him by way of the impugned order, it is not found illegal to be interfered with by this Court..

Consequent to the above discussion, the instant Crl. Misc. Application is dismissed in *limine* directing the applicant to prove his innocence by joining the trial, if so is advised to him.

JUDGE