

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Misc. Application No.50 of 2024
 [Rabnawaz Malik vs. The State and others]

Date	Order with signature of Judge
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BEFORE

Mr. Justice Arshad Hussain Khan

FRESH CASE

1. For orders on MA 630/2024
2. For orders on office objection [Reply as at A]
3. For orders on M.A. 631/2024 [Ex/A]
4. For hearing of main case

12.01.2024

Mr. Abdul Basit Buriro, Advocate for the applicant.

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1. Granted.
 2. Deferred
 3. Granted subject to all just exceptions.

4. Through this Cr. Misc. Application the Applicant assailed the order dated 30.12.2023, passed by learned VIIth Additional Sessions Judge, Karachi [West], in Cr. Misc. Application No.4619/2023, whereby the Application under Section 22-A Cr.P.C. filed by the applicant was dismissed.

Brief facts of the case in nutshell are that the Applicant [Rab Nawaz Malik] and the proposed accused [Imran Ahmed] known to each other. On 10.06.2023, the proposed accused came to the Applicant and demanded his vehicle bearing No.E-6469, Model 1986, Maker Nissan; and promised that he will return back within 2-3 months. The said vehicle was handed over to the proposed accused, however, when the Applicant needed the vehicle, the proposed accused flatly refused to hand over the same and issued threats to the applicant for dire consequences. Thereafter, the Applicant approached to the police to take legal action but in vain. Hence, the Application under Section 22-A Cr.P.C. was filed, which was dismissed by the order impugned herein.

Learned counsel for the applicant argued that the impugned order being fanciful is not sustainable under the law. He has further argued that the learned trial court has failed to apply its judicial mind and erred in its findings and has passed the impugned order in hasty manner. He has argued that the concerned police through their report dated 14.12.2023 submitted before the trial court has mentioned that the matter pertains to civil nature is not proper inquiry under Section 155 Cr.P.C. as the same has not been scrutinized during the course of inquiry. He has argued that the proposed accused has cheated and has also committed the criminal breach of trust with the applicant. He has further argued that while dismissing Application under Section 22-A Cr.P.C. no findings have been given in the impugned order by the learned trial court. He has also argued that regarding the matter in hand, the Applicant has produced his witnesses before the concerned

SHO but he has not recorded their statements and refused to do so. Lastly, he has prayed that the impugned order may be set aside as being illegal, unlawful and without considering the merits and circumstances of the complaint and the concerned police may be directed to record the statement of the Applicant under Section 154 Cr.P.C.

Heard learned counsel for the applicant and perused the material available on the record.

From perusal of the impugned order, it appears that learned VIIth ADJ, Karachi [West], while dismissing the applicant's application under Section 22-A Cr.P.C. also issued directions to the concerned SHO to provide legal protection to the Applicant. The relevant para of the order reads as follows :

“C..... Furthermore, based on the contents of the petition and application annexed with the instant application/petition, it appears that no any cognizable offence is made out. Moreover, the allegations of threats made to the applicant / petitioner lack support during the police inquiry. There is no evidence to substantiate any cognizable offence committed by the proposed accused. In view of the above discussion and in absence of reliable material available on record, present application/petition stands dismissed accordingly. It is important note that every citizen has the right to protection against illegal harassment. Therefore, the concerned SHO is directed to provide legal protection to the applicant /petitioner in accordance with the law..... ”.

Bare perusal of the impugned order shows that the learned VIIth Additional Sessions Judge, Karachi [West] has observed that the allegations of threats made to the applicant lack support during the police inquiry; there is also no evidence to substantiate any cognizable offence committed by the proposed accused. Moreover while dismissing the application of the applicant under Section 22-A Cr. P.C., he has issued directions to the concerned SHO to provide legal protection to the applicant /petitioner in accordance with the law.

In the circumstances, I observe that the learned VIIIth Additional Sessions Judge, Karachi [West], has rightly dismissed the application under Section 22-A Cr.P.C. and has done his job very proficiently while issuing the directions to the police regarding protection . On the other hand, Learned counsel though argued at some length reiterating the contents of instant application, however, he has failed to justify his instance in the case and has also failed to point out any illegality and infirmity in the impugned order, which could warrant any interference by this Court. Hence, this Cr. Misc. Application is dismissed in limine.

JUDGE