

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

Cr. Rev. Appln. No.S-32 of 2019

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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For hearing of MA-7447/2019

Mr. Khalil Ahmed Unar, Advocate for applicant.
Mr. Fayaz Hussain Sabki, Assistant P.G.

Date of hearing 16.05.2022
Date of judgment 16.05.2022

J U D G M E N T

SALAHUDDIN PANHWAR, J,- Listed application for restoration of present revision application after extending no objection by learned A.P.G is restored to its original position and is being decided today.

2. Through captioned criminal revision application, applicant has impugned the order dated 31.01.2019 passed by learned Vth Additional Sessions Judge, Hyderabad in Direct Complaint No.14 of 2018 (Re: Farhan Ahmed v. Muhammad Bux @ Bara Baloch and others).

3. The facts relevant to the present revision application are that on 26.10.2016 at 2130 hours complainant registered F.I.R bearing Crime No.88 of 2016 under Sections 20 Haraba Hudood Ordinance, 147, 148, 506/2, 448, 337-F(v) and 337-L(ii) PPC at P.S B-Section Latifabad, Hyderabad, alleging therein that on 30.07.2016 when he was present in his house, he received a telephonic conversation from one Faisal, who informed him that few persons after breaking locks entered the animals in tomb / dargah of his grandfather. Upon such information, complainant reached there and the persons present there restrained him from entering in

tomb / dargah and accused Nasir Chingari pointed out pistol to complainant, whereas accused Atif, Gulzar Javed Shah, Kala Farhan and Nasir Mehmood caught hold him. Accused Nasir Chingari threatened the complainant to kill him and started beating with sticks / clubs. During scuffle, the accused persons snatched Rs.4500/-, sunglasses and gold ring from complainant.

4. It is further alleged by complainant that investigation of above F.I.R was assigned to SIP Mubarak Ali Lashari, who did not carry investigation in accordance with law, hence, he filed application for transfer of investigation which was allowed and investigation of aforesaid crime was assigned to Inspector Manzoor Hussain Mallah, who submitted the charge sheet by deleting Section 20 Haraba Hudood Ordinance and 448 PPC which Sections as per complainant have been deleted by the Police mala fidely.

5. Heard learned Counsel for applicant / complainant as well A.P.G appearing for the State and perused record. Relevant paragraph at Page-3 of the impugned order is reproduced hereunder:-

“The complainant has registered FIR No.88/2016 in respect of same incident with almost identical allegations against the accused but the investigation officer after due investigation deleted section 20 Haraba Hudood Ordinance and 448 PPC from the charge sheet and such charge sheet was accepted by the Court of concerned Judicial Magistrate and after charge trial is pending adjudication at the stage of evidence. I have gone through the statements of the complainant and his witnesses so recorded during enquiry as well as annexures. The complainant apparently has filed instant direct complaint for the purpose of trial against the accused for offences under section 20 Haraba Hudood Ordinance and 448 PPC, which were

deleted in the charge sheet by the investigation officer as well as by the trial Court at the time of framing of charge otherwise nothing alien to the criminal proceedings of Crime No.88/2016 are mentioned in the present direct complaint. As per available record complainant had moved an application under section 227 Cr.P.C for alteration of charge by adding section 20 Haraba Hudood Ordinance and 448 PPC, which was dismissed by learned trial Court vide order dated 01.02.2018 and same was impugned in criminal revision application No.11/2018, which too was dismissed by this Court vide order dated 24.04.2018 and at present as per learned counsel for complainant criminal revision application No. S-132/2018 is pending before the Honourable High Court of Sindh Circuit Court Hyderabad, and if suppose Honourable High Court allows the revision application of the complainant then purpose of filing this direct complaint would be of no use but dragging the accused in two criminal cases of one incident, therefore, prima facie complainant has failed to make out good case for taking cognizance of the offences against the accused and same is hereby dismissed.”

6. After perusal of the above, it appears that I.O after due investigation deleted Section 20 Haraba Hudood Ordinance as well Section 448 PPC from the charge sheet and said charge sheet was accepted by the competent Court. Subsequently, the complainant filed an application under Section 227 Cr.P.C for alteration of charge by adding Section 20 Haraba Ordinance and Section 448 PPC which was dismissed. It is pertinent to mention here that complainant filed an application for transfer of investigation which was allowed and investigation was assigned to another I.O who after investigation has deleted the said sections, the complainant is anxiety for to be added; it is the discretion of the I.O to delete or add any section after investigation of any case in view of the circumstances of the case. Admittedly, the I.O after investigation has deleted the said sections which even otherwise

were not attracted in the present case. The accused persons after full dressed trial have also been acquitted by the trial Court on the basis of non-availability of concrete evidence against them and such acquittal appeal has also been dismissed today by order dated 16.05.2022.

7. In view of above, instant criminal revision application being misconceived is hereby dismissed.

JUDGE

Shahid

