

IN THE HIGH COURT OF SINDH AT KARACHI

Cri. Misc. Application No. 846 of 2023

Applicant : Ahtisham Aslam
through Mr. Ghulam Rasool Korai, Advocate

Respondent : The State
through Ms. Robina Qadir,
Deputy Prosecutor General, Sindh

Respondents 5&6 : through Mr. Daniyal Shaikh, Advocate

Date of hearing : 25th September, 2024

Date of Order : 27th September, 2024

ORDER

Omar Sial, J: Ahtisham Aslam has challenged an order of the learned 1st Judicial Magistrate, Malir, Karachi, dated 18.09.2023, through his learned counsel, Mr. Ghulam Rasool Korai. In terms of the impugned order dated 18.09.2023, the learned Judge disagreed with the police recommendation of disposing of F.I.R. No. 77 of 2023 at the Airport police station and took cognizance instead.

2. Learned counsel submits that no incident such as the one reported occurred, and therefore, the learned Judge should have accepted the police recommendation. The learned Judge has noted in the impugned order that witnesses have recorded their section 161 Cr.P.C. statements in support of the complainant's version of events. Merely because the learned counsel says that the incident is false, would not ipso facto mean that the learned Judge should have accepted the police recommendation. It is now well settled and does not require precedents to be cited that the opinion of a police officer is not binding on the learned Judge. The learned Judge has given his reasons for taking cognizance.

3. It is with great regret that it has been noticed that a substantial number of orders of learned magistrates on section 173 Cr.P.C. reports are challenged on flimsy grounds in the High Court. Be it taking cognizance or not or be it agreeing with a police

recommendation or not, people are being advised to challenge every order in the High Court. This is not inappropriate and has led to a huge number of such cases having been filed. The Court is overwhelmed with such applications in which the lawyers want the High Court to review, analyze, and comment on evidence at this preliminary stage. One wonders what will be left of the case at the subordinate level if, in every other case, the High Court examines and passes an order on such applications. Applications such as the current one further keep the High Court from meaningful work.

4. The application is dismissed. If the applicant feels the case against him is groundless, he may invoke the provisions of section 265-K or 249-A Cr.P.C., as the case may be if so advised.

JUDGE