

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Misc. Appln. No.S- 50 of 2016.

Date Order with signature of Judge.

- 1.For orders on office objection as flag A.
- 2.For orders on M.A No.2700/2016
- 3.For katcha peshi.

25.7.2016.

Mr. Ashfaque Hussain Abro, advocate for the applicants.

Mr. Nadeem Ahemd Tunio ADPP for the State

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Through instant criminal miscellaneous application, the accused persons have challenged the orders dated 05.03.2016 and 29.01.2016 whereby learned Civil Judge and Judicial Magistrate, Dokri on police report U/S 170/173 Cr.P.C while taking cognizance has issued N.B.Ws.

At the outset, learned counsel contents that albeit this is a murder case but no iota of evidence was available with the prosecution hence impugned order is not speaking as well as no opportunity of hearing was provided to the accused persons.

Whereas learned ADPP for the State and counsel for the complainant contend that impugned order is well reasoned.

For the sake of brevity impugned order is reproduced herewith:

"On 09.11.2015, I.O submitted interim police report U/S 173(1)(B) whereby accused Abdul Aziz@ljan was shown under custody while accused 1.Amjad, 2.Sajjad, 3.Qasim, 4.Khan Muhammad and two unidentified accused persons were shown yet to be arrested vide column No.4 of that challan. Later on investigation of the present case was transferred from P.S Badeh to P.S Rehmatpur. Whereafter from 09.11.2015 till today I.O/SHO of P.S Rehmatpur not submitted final police report and kept making applications for grant of further time to submit final report by showing excuses before this court

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and this Court kept granting time to submit final report in the interest of justice, however SHO P.S Rehmatpur failed to submit final report. This Court also issued show cause notice to concerned SHO/SIO who did not furnish reply thereof and not appeared before this Court.

Today on 29.01.2016 complainant and his witnesses appeared before this Court and they fully supported their case. Heard complainant and P.Ws so also perused material available on record. The contents of F.I.R so also statements of P.Ws specifically implicate the names of all accused persons mentioned in F.I.R. The statements and record also reveals the commission of offence of murder. Post mortem report is also available on record which reveals the commission of offence of murder and it is quite clear that prima facie case has been made out by the prosecution, which requires its trial before honourable trial Court prima facie face. Since prima facie case has been made out against present accused. Accused are specifically nominated in the F.I.R, hence I do hereby take cognizance of present case upon interim report and treat it as final. Let the case be registered and issue N.B.Ws against accused 1.Amjad S/O Ahmed Ali 2.Sajjad S/O Mehboob Ali 3.Qasim S/O Allah Warrayo and 4.Khan Mohammad @Khanoo S/O Subhan be issued. After completing initial formalities case be sent up to the Court of Honourable Sessions Judge, Larkana.

Perusal of above shows that the plea of learned counsel is that impugned orders are not speaking is without force. Learned Magistrate while examining the F.I.R, statement U/S 161 Cr.P.C coupled with medical evidence reached on conclusion that the case is made out against the accused persons, accordingly, the cognizance was taken and interim report was treated as final. Accordingly, impugned order is well reasoned hence instant miscellaneous application is dismissed.


JUDGE