

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Misc. Application No.118 of 2017

Date	Order with signature(s) of Judge(s)
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1. For hearing of cases
 2. For hearing of M.A. No.6920/2017
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12.02.2018

Mr. Amer Raza Naqvi, advocate for applicants
Applicant No.2 Yaqoob Khan is present in person
Mr. Munsif Jan, Special Prosecutor NAB a/w IOs Imdad A. Palijo,
Waliullah and Fazal-ur-Rahman

Through instant criminal miscellaneous application, applicants Muhammad Akram Khan and Yaqoob Khan have called in question, order dated 06.05.2017, passed by learned Accountability Court No.I, Sindh, Karachi in Reference No.2/2012, whereby application submitted on behalf of the applicants/accused, under section 540, Cr.PC for summoning the Investigation Officer for production of re-investigation report was dismissed.

Notice was issued to the Special Prosecutor NAB.

Mr. Amer Raza Naqvi, learned counsel for the applicants/accused, mainly contended that further investigation was conducted on the orders of the Director General NAB Sindh and production of such report in evidence would be essential for the just decision of the case.

Mr. Munsif Jan, Special Prosecutor NAB, argued that evidence of Investigation Officer Muhammad Ishtiaq Khan has already been recorded by the trial court. It is further submitted that competent authority has decided the outcome of further investigation in the aforesaid reference as void. Lastly submitted that NAB is unable to produce further investigation report before the trial court in evidence. Special Prosecutor NAB opposed the application.

After hearing the learned counsel for the parties, we have carefully studied section 540, Cr.PC, which reads as under:-

“540. Power to summon material witness or examine person present: Any Court may, at any stage of any inquiry, trial or other proceeding under this

Code summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined; and the Court shall summon and examine or re-call and re-examine any such person if his evidence appears to it essential to the just decision of the case.”

Counsel for the applicants/accused has pointed out that further investigation was ordered on the orders of the Director General NAB Sindh, Karachi. It is admitted by Special Prosecutor NAB that further investigation report is available with the NAB but Investigation Officer has already been examined by the trial court.

In our considered view, trial court was empowered to recall and reexamine any such person if his evidence appears to it essential for just decision of the case. Further investigation report is available with the NAB. We direct trial court to recall PW Muhammad Ishtiaq Khan, Investigation Officer for producing the further investigation report, however, strictly in accordance with law. It is made clear that evidentiary value of further investigation report and decision of the competent authority to declare the outcome of further investigation as void shall be considered by the trial court, strictly in accordance with law.

In the view of above, aforesaid criminal revision application is allowed with direction to the trial court to re-call investigation officer for production of further investigation report in the aforesaid crime in evidence, then to decide the case, in view of the above observations according to law.

JUDGE

JUDGE

Gulsher/PS