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ORDER SHEET

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

CP No.D-897 of 2016.

Date Order with signature of Judge.

For orders on maintainability.

28.9.2016.

Mr. Munawar Ali Bhatti Advocate for the petitioner.

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Through instant petition, the petitioner seeks quashment of F.I.R bearing No.31 of 2016, registered with police station Nasirabad for offence under section 506/2, 337-A(i),F(i),34 PPC.

At the very outset learned counsel for the petitioner was directed to satisfy the Court on the point of maintainability of this petition in view of dictum laid down by Honourable Supreme Court of Pakistan, in case of Director General Anti-corruption Establishment Lahore and others v. Muhammad Akram Khan and others, reported as PLD 2013 Supreme Court 401.

Learned counsel for the petitioner relying upon the cases of *Muhammad Aslam (Amir Aslam) and others V. DPO, Rawalpindi and others (2009 SCMR 141)*, *Miraj Khan V. Gul Ahmed and 3 others (2000 SCMR 122)*, *Rizwan Bibi V. The State and another (2012 SCMR 94)*, *Hakim Ali and another V. Province of Sindh through Secretary, and 10 others (PLD 2009 Karachi 278)*, *The State through Prosecutor General, Punjab, Lahore V. Sultan Ahmed and others (PLD 2007 Supreme Court 48)*, *State of Islamic Republic of Pakistan through deputy Attorney General for Pakistan V. Kenneth Marshal and 2 others (2005 SCMR 594)*, *Mst. Waziran and another V. Province of Sindh through Home Secretary, Government of Sindh and 10 others (2016 MLD 1180)*, *Raza Muhammad Bhutto V. The State (2009 MLD 76)*, *Muhammad Hanif Pathan V. The State and 3 others (PLD 1999 Karachi 121)*, *Mst. Farida Gul Agha V. Sheikh Muhammad Naseem and another (2012 P Cr.LJ 119)*, *Madad Ali V. The State (2014 MLD 493)*, *Mubashar Ahmed v. SHO, Police Station Saddar,*

Gujranwala and 4 others (2007 P Cr.LJ 384), Yasin Khan Baber V. the State (1995 P Cr.LJ 1424) and Sheikh Muhammad Tahir V. The State and 2 others (2012 P Cr. LJ 1075) has contended that this petition for the quashment of FIR is maintainable before this court.

We are afraid, the contention of learned counsel for the petitioner is not correct. The case cited by learned counsel for the petitioner are prior to the judgment passed by the Honourable Supreme Court of Pakistan in the case of Director General, Anti Corruption (Supra), wherein it has been categorically held that law is quite settled by now that after taking of cognizance of a case by a trial court the FIR registered in that case cannot be quashed and the fate of the case and of the accused person challaned therein is to be determined by the trial court itself. It goes without saying that if after taking of cognizance of a case by the trial court an accused person deems himself to be innocent and falsely implicated and he wishes to avoid the rigours of a trial then the law has provided him a remedy under section 249-A/265-K, Cr.P.C to seek his premature acquittal if charge against him is groundless or there is no probability of his conviction. Admittedly in the instant case challan has been submitted before Judicial Magistrate concerned, and in the light of above dictum of Honourable apex Court the petitioner has remedy of filing proper application under section 249-A Cr.P.C for his premature acquittal therefore, this petition being not maintainable under the law is hereby dismissed.


JUDGE


JUDGE