

ORDER SHEET

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

Cr. Misc.Appln:No.S-885 of 2025

DATE

ORDER WITH SIGNATURE OF JUDGE

30.03.2026

Mr. Zubair Ahmed, advocate for applicant.

Mr. Altaf Hussain Khokhar, D.P.G for State

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Dr. Syed Fiaz ul Hassan Shah, J: Learned counsel for the applicant states that FIR No. 138/2025 was initially registered under Sections 364-A, 316, 365-B, 376, 420, and 506/2 of the PPC. However, the Investigating Officer (I.O.) submitted the challan only under Sections 3 & 4 of the Child Marriage Restraint Act, 2013. He contends that the learned Presiding Officer failed to appreciate that this is a case of rape, as the victim is a 15-year-old minor who was kidnapped while on her way to school. He further submits that the Trial Court has not examined this aspect; hence, the instant Criminal Miscellaneous Application has been filed.

2. The Investigating Officer, present in Court, states that the victim in her statement before him that she was not kidnapped and she had instead contracted marriage in accordance with 'Muhammadan Law'. The I.O. further clarified that since the victim's age was below 18 years, he submitted the challan under Sections 3 & 4 of the Child Marriage Restraint Act, 2013. When confronted with these facts, learned counsel maintains that the victim was indeed kidnapped and raped therefore, challan under section 376 PPC must be filed.

3. Heard the learned counsel for the applicant and the learned D.P.G., who is assisted by the Investigating Officer.

4. It appears that although the victim is allegedly 15 years of age, a valid Nikahnama has been produced before the Investigating Officer. Further, the alleged victim, Mst. Hifsa had already stated before the I.O. that she was not

kidnapped by anyone; on the contrary, she entered into marriage in accordance with 'Muhammadan Law'. Under these circumstances, no material currently available with the Investigating Officer to alter the legal provisions and challan under section 376 PPC as emphasized by applicant. Challan has already been submitted under Sections 3 & 4 ibid Act, the instant Criminal Miscellaneous Application is not maintainable and is, therefore, dismissed.

5. However, the learned counsel for the applicant is at liberty to agitate the point as to whether the provisions of the section 376 PPC can be invoked or otherwise at the time of framing the charge which Trial Court shall decide on the basis of available record and in accordance with the law.

JUDGE

Ahmed/Pa

