

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.S-916 of 2015

Date Order with signature(s) of Judge(s)

1. For orders on office objection & reply as at 'A'.
2. For hearing of CMA No.3807/2015
3. For hearing of Main Case

01.12.2015.

Mr. Shaikh Jawaid Mir, advocate for the Petitioner.
Syed Allay Maqbool Rizvi, Addl. A.G.

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The petitioner through this petition has sought the following reliefs:-

1. To order dispensing personal appearance of the petitioner before ATC Courts/Sessions Courts for seeking bail/relief and/or depute court official to see his presence at his house for the purpose of pre-arrest bail.
2. To direct the respondents not to harass the petitioner and his family members and provide protection.
3. To restrain and prohibit the respondents from registering false FIRs against the petitioner without prior permission of the Hon'ble Court and not arrest him.
4. To grant any other relief, as deemed fit and proper and in the interest of justice.

Despite the office objection on **23.5.2015** this petition was entertained on urgent application and office objections were deferred and notices were issued to the Respondents and Advocate General Sindh. Thereafter M/s.Shaikh Jawaid Mir, and Saify Ali Khan, advocates remained absent even notices to the respondents were not issued. Therefore after three months on **02.9.2015** this petition was listed for non-prosecution. Even on the said date both the lawyers were absent.

However, one week time was granted for compliance. On **27.10.2015** again neither Mr. Shaikh Jawaid Mir nor Ms. Saify Ali Khan, were present and one Mr. Muhammad Imran, advocate requested for adjournment, which was granted. Today again none was present on the first call. However, after tea break Mr. Shaikh Jawaid Mir, advocate appeared, he did not open the file nor referred anything in this constitution petition and insisted that Court should issue contempt proceeding against the Respondents No.1 & 2 as according to him an order of this has not been complied with. He has not filed any contempt application in this case to claim defiance of the order **23.5.2015**. The order dated 23.5.2015 reflects that in CP No.2820/2015 the respondents are party in somewhat similar circumstances.

The record further shows that petitioner has never appeared in this case as the office objection is to the effect that the petitioner's affidavit is to be filed and order on office objection was deferred only because petitioner counsel had informed that on the date of filing of this petition, the petitioner was expecting protective bail and his life was in danger. Therefore, the on 23.5.2015 office objection was deferred but it has not been complied with till date. This petition was filed with supporting affidavit of Ms. Saify Ali Khan, advocate. Admittedly Ms. Saify Ali Khan, advocate was not privy to the facts mentioned in the petition as she has no personal information of the facts of this petition even otherwise petition was required to be filed with supporting affidavit of the petitioner. The petitioner has not filed supporting affidavit despite lapse of six months' time.

The perusal of order dated **23.5.2015** further suggests that prayer clause-I which was repeated in CMA No.3807/2015 has already been declined by the Court in the following terms;

It needs not to emphasize that question of dispensation of personal appearance of petitioner is a domain of concerned trial Court, which shall be decided by the trial Court strictly on merits.

Therefore, on the first date of hearing my learned brother Mr.M. Farooq Shah.J, had partly dismissed this petition. Regarding prayer clause 2 & 3 the Respondents have filed their reply and they have denied allegation of causing harassment and lodging false FIR. In fact, no case was made out even to entertain this petition, however, Court has shown indulgence by issuing notices. The petitioner knew the fate of this case, therefore, he never turned up and his counsel were also absent on the last two dates of hearing. Today Mr.Shaikh Jawaid Mir, advocate has failed to argue the maintainability of this petition. Petition is dismissed, both in view of non-compliance of office objection as well as on merit.

JUDGE

SM