

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Cr. Misc. Application No. 69 of 2015

---

Date	Order With Signature Of Judge
------	-------------------------------

---

For hg of case

06.02.2017.

Mr. Muhammad Arshad Tariq, advocate for applicant.  
Mr. Ashiq Muhammad, advocate for respondent No. 1.  
Mr. Abdullah Rajput, A.P.G.

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Misc. Application, under section 561-A, Cr. P.C., applicant/ complainant Muhammad Waqas son of Muhammad Waseem has impugned the order dated 24.03.2015, whereby the learned 7<sup>th</sup> Judicial Magistrate, Karachi-East approved the final report, submitted by the I.O. for cancellation of F.I.R. bearing No. 297/2014, registered at P.S. Landhi, under sections 420, 406, 468, 471, 34 P.P.C. in “C” class.

2. Learned counsel for the applicant has mainly contended that the learned Judicial Magistrate failed to give due weight to the evidence as the tenancy agreement dated 01.02.2007 was contradicting the so-called sale agreement dated 07.10.2003 and sale receipt dated 10.06.2003, which were fake and forged documents prepared by the respondents/ accused Nos. 1, 2 and 3 and it is well settled principle of law that the criminal and civil litigation can be initiated simultaneously and the criminal litigations are not barred in presence of civil litigations.

3. On the other hand, learned A.P.G. has fully supported the impugned order.

4. It appears that on 27.12.2014, the applicant lodged the aforementioned F.I.R., stating therein that the house bearing No.10, situated in Block-87, Landhi, Karachi was originally owned by his father, namely, Muhammad Waseem, who died in the year 2008 and thereafter the said house, along with a shop was sold out to Abdul Jabbar son of Haji Abdul Ghafoor. The shop in the house was rented out by his father in 2007 to Inamul Haq, the respondent No. 1 and after its sale the respondent No.1 paid rent to Abdul Jabbar up to September, 2014. Thereafter, said Abdul Jabbar sold out the said property to Raees Ahmed, Muhammad Farooq and Muhammad Yasin, all sons of Noor Muhammad, who are at present owner of the said property. It has also been stated that on 05.12.2014 the complainant came to know that the respondent No. 1 had filed a receipt dated 10.06.2003 in a case before the Court along with sale agreement dated 07.10.2003, which bears false the signature of his deceased father, as neither his father had sold out the shop of respondent No. 1 nor he received any amount from him in that connection and the respondent No. 1 got false receipt and sale agreement prepared with connivance of respondents No. 2 and 3, to retain the possession of the rented shop forcibly without paying any rent to its owner.

5. After investigation, the I.O. submitted his report under section 173 Cr. P.C., alleging therein that during investigation he visited the place of incident and verified the sale agreement and its attestation from Notary Public, namely, Syed Zainul Abidain, advocate, while the complainant failed to produce any document to prove that he was the owner of the shop. Hence the I.O. came

to the conclusion that there was no sufficient evidence against the accused persons to submit charge-sheet against them; therefore, the final report under section 173 Cr. P.C. was submitted by him for disposal of the case under “C” class, which was approved by the learned Judicial Magistrate, vide order impugned in this Criminal Misc. Application.

6. Admittedly, the complainant is not the owner of the aforementioned shop as according to him the same was sold out after the death of his father to one Abdul Jabbar, and later on Abdul Jabbar sold out it to Raees Ahmed, Muhammad Farooq and Muhammad Yasin. The authenticity of the alleged receipt and sale agreement can only be determined by the civil Court having jurisdiction and unless and until such adjudication of the said document is made, no criminal liabilities can be fixed upon the respondents/ accused, under sections 420, 406, 468, 471 P.P.C. Therefore, under the circumstances, the Investigation Officer has rightly submitted his report, under section 173 Cr. P.C. for the disposal of the case under “C” class, which was approved by the Judicial Magistrate by appreciating the facts on record. Hence, the impugned order, being in accordance with law, does not suffer from illegality or irregularity requiring any interference of this Court under section 561-A, Cr. P.C. This Criminal Misc. Application is, therefore, dismissed, accordingly.

JUDGE