

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Rev. Appln. No.78 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Present: Mr. Justice Nazar Akbar

For hearing of Maintainability of Crl. Rev. Application

13.06.2018

SDPO Zahid Hussain, a/w SIP. Abdul Ghafoor.
Ms. Rahat Ahsan, Addl. P.G.

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NAZAR AKBAR, J:- This Crl. Rev. Application was filed by the applicant against the order dated **19.4.2018** whereby District & Session Judge West Karachi has dismissed his Crl. Misc. Appln. No.582/2018 under Section 491 Cr.P.C for recovery of his child illegally detained as alleged by Surjani Town Police. The applicant in Crl. Misc. Application before District & Sessions Judge has alleged that police has unlawfully picked his son namely Muhammad Nadeem and therefore, he should be recovered from the illegal custody of SHO P.S Surjani Town. The learned District & Sessions Judge (West) Karachi, on the complaint directed the XVth Civil Judge & Judicial Magistrate, Karachi-West to raid P.S Surjani Town, West Karachi. The report of the magistrate after surprise visit at police station was that the detinue was not found in the illegal confinement at P.S Surjani Town, therefore his application was dismissed.

Being dis-satisfied with the said order, the applicant has filed this Crl. Rev. Application on **21.04.2018** before this Court. Since it was a sensitive matter as allegation was illegal detention of applicant's son and the applicant has been pursuing this Crl. Rev in person, notices were issued and SSP West, Karachi was directed to conduct a thorough probe and ensure recovery of detinue within 10 days by order dated **04.5.2018**. On **31.5.2018** SDPO Surjani Town, sought time for the

recovery of the detinue and yesterday i.e **12.6.2018** when the petitioner was present following order was passed to make sure that his child is recovered.

12.06.2018

Petitioner present in person.
SDPO Zahid Hussain, a/w SIP. Abdul Ghafoor.
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SDPO Surjani, Zahid Hussain, has submitted report called by this Court by order dated **31.5.2018**, it is taken on record. Without touching the merits of the dispute the only issue raised by the applicant that his son is missing and irrespective of the fact that he has been kidnapped or otherwise he has to be recovered. As per CDR report location of missing boy is Behria Heights. It means Police can comfortably trace his son namely Muhammad Nadeem Hafeez. SDPO Zahid Hussain present in Court makes a categorical statement in Court that he can recover the child within 24 hours, however, he alleges that child has not been misplaced and the petitioner knows where is his child, therefore, place of location of his child may be changed by the petitioner himself to create hindrance in the recovery of the child. In view of the report and other material on record the apprehension of SDPO needs to be addressed. Therefore, it is hereby ordered that petitioner will hand over his mobile phone to the police officer so that he should not inform his child to change the location. The petitioner will also be with police officer for 24 hours so that on failure, the police should not make allegation that movement of the child is controlled by the petitioner.

In view of the above, SDPO is directed to produce the child by tomorrow and in case of his failure it would not only be a contempt of Court because he makes a statement before the Court that he knows where is the child, it would also mean police officials are involved in removing custody of petitioner's child, therefore, Crl. Proceeding would also be initiated against them.

After passing the above order SDPO informs that two other persons namely Muhammad Afzal & Bashir Ahmed standing out the Court are also involved in this activity with petitioner. They have also been called in Court; their mobiles have also been handed over to the police. One of them Muhammad Afzal confirms he has come to Court with the petitioner, and for the other he states he has come in some other case before another bench. However, on his presence in this bench instead of other bench, the possibility of causing problem in recovery of child cannot be ruled out. These persons

have to cooperate with police for recovery of child and in the process they should sacrifice comfort for themselves too. It is just a matter of 24 hours. The SDPO is directed to be very kind and treat them as his guest and no complaint should be made by them tomorrow. These two persons will also remain with police so that child may be recovered by police and no hindrance is created in his recovery by police.

To come up on **13.6.2018**.

The aforesaid order has been passed in view of the report of SDPO dated **11.6.2018** filed in Court on **12.6.2018** containing following information:-

Being an enquiry officer the undersigned obtained the CDR record of petitioner's son namely Nadeem (**number provided by the petitioner**) which revealed that his location is continuously found at New Behria Hospita, near New Behria Heights, Behria Town Highway M9 Karachi w.e.f 16.04.2018 TO 17.04.2018. (CDR list is attached herewith for perusal, please).

Yesterday in presence of applicant it has also been categorically stated by SDPO before the Court that detinue is in fact with the applicant and applicant is making a false claim that his son has been detained by the police. As stated in the earlier order reproduced above unfortunately Muhammad Afzal who lives in the vicinity of the complaint and otherwise acquainted with the applicant out of curiosity and sympathy with the applicant was present in Court alongwith applicant. The reason of passing the order yesterday whereby these two persons also suffered was to ensure the recovery of detinue and check the possibility for the police to play hide & seek with the Court or try to blackmail the applicant outside the Court.

Today another report has been filed. The applicant, it is reported instead of facilitating police to recover the detinue has runaway. However, two other person Muhammad Bashir and Muhammad Afzal remained with the police so that if needed they may assist recovery of child as the detinue's father has run away from the police station. SDPO

on the basis of tips available with him through CDR before going to possible location of child first went to the house of complainant at **Khuda Ki Basti** to find out whereabouts of the applicant / complainant. The house of the complaint was found locked and statement of neighbors namely Ashfaq Ahmed and Muhamamd Naveed were recorded. Thereafter the police tried to locate the detinue in Bahria Town, but off course as expected he was not available there. The report containing statements of staff of Behria Town and two persons who were with police since yesterday confirm efforts of police. In view of the above before concluding I must record my sincere gratitude to **Mr.Muhammad Afzal** and **Mr.Bashir Ahmed** for cooperating with the police to ensure that the detinue may be recovered.

The above discussion and police report and statements of two independent persons confirm that applicant's son has never been picked up by police nor applicant is unaware of whereabouts of his son. The applicant has repeatedly misused the process of Court by knowingly and purposely making false statement in his affidavit on oath in support of Cr. Misc. Appln. No.582/2018 before the District Judge West Karachi and after abusing the process of District Court he had courage to approach this Court for giving similar false statement knowingly and believing to the Court for possible action against the police official. The applicant is also guilty of violating the order passed by this Court yesterday for helping the police to recover his child. Mobile phone of the applicant is still with SDPO.

In view of the above facts and discussion, this Cr. Revision Application is dismissed. SDPO present in Court is directed to lodge FIR against the applicant under **Section 182 PPC** and any other enabling Section of PPC or any other law which may be attracted in the given facts and circumstances of the case. In the FIR he should incorporate all the efforts has been made by him and other police officials for the recovery of

a detinue who was not even missing, so that time consumed by the State
functionaries from the date of filing false application under Section 491
Cr.P.C before District Court and this Court must come on record.

Cr. Revision Application is dismissed.

JUDGE

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