

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Cr.Misc.Appl.No.S- 199 of 2018

| | |
|-------------|--------------------------------------|
| DATE | ORDER WITH SIGNATURE OF JUDGE |
|-------------|--------------------------------------|

18.02.2019.

Mr. Mashooque Ali Bhurgri, Advocate for applicant.
Mr. Razia Ali Zaman Khan Patoli, Advocate for respondent No.4.
Ms. Sobia Bhatti, A.P.G. for the State.

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Learned counsel for the applicant by drawing attention towards the impugned order dated 19.04.2018, states that the order is illegal and contrary to the facts of the case, not sustainable in law, suffers from legal infirmity and no connection with the reality of the case. Learned counsel next contends that the fact is that the applicant had a serious grievance against the respondent No.4, who per applicant, hit the brother of the complainant with white Corolla Car with government No.GS-9788 and thereby the brother of applicant was died. Counsel further states that the learned trial Court failed to consider that a cognizable offence was made out and the SHO concerned was duty bound to register FIR where information of a cognizable offence was received by him. Learned counsel prays that the impugned order suffering from material illegality and irregularity be set aside.

On the other hand, learned counsel for respondent No.4 as well as learned A.P.G. have supported the impugned order by stating that it was a road accident.

Section 154 Cr.P.C. provides a mechanism that if any person approaches the concerned Police Officer, he is to record former's statement u/s 161 Cr.P.C. and if a cognizable offence is made, to enter the same in the book provided u/s 154 Cr.P.C and proceed in accordance with law. One fails to understand why such a simple procedure is not followed in letter and spirit?

In the circumstances at hand, the order impugned which granted a clean chit to the respondents without full trial, is seen by me an obstruction in the process of administration of justice and the same is set aside. The applicant may approach the concerned SHO for recording his statement and if a cognizable offence is made out then enter the same in a book provided u/s 154 Cr.P.C. and proceed further in accordance with law however, if the FIR is registered, the persons nominated as accused shall not be arrested unless some tangible and credible material is brought on record.

The criminal miscellaneous application stands disposed of in the above terms.

JUDGE

Tufail/PA