

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Miscellaneous Application No.09 of 2019

Date	Order with signature of Judge
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Before: Mr. Justice Nazar Akbar

Applicant No.1 : Noman Tabani
Applicant No.2 : Muhammad Rafiq Tabani
Through Mr. Muhammad Irfan, Advocate.

Versus

Respondent No.1 : Sheerazuddin Jiwani.

Respondent No.2 : The State.

Date of hearing : **04.03.2019**

Date of Decision : **04.03.2019**

ORDER

NAZAR AKBAR, J. Through this Criminal Miscellaneous Application the applicants have challenged the order dated **04.12.2018** whereby learned VI-Additional Sessions Judge, South Karachi has dismissed Criminal Revision Application No.52/2018 filed by the applicants against the order dated **11.08.2018** passed by the XXV-Civil Judge/ Judicial Magistrate, South Karachi, whereby the Judicial Magistrate declined the request of learned counsel for the applicants for giving direction to the complainant to produce record of business.

2. Precisely the facts of the case are that the applicants are facing trial in Criminal Case No.594/2007 arising out of Crime No.856/2016 under **Section 489-F, 406 read with Section 34 PPC** registered at P.S Defence, South Karachi before the XXV-Judicial Magistrate, South Karachi. The examination-in-chief of the complainant was recorded at the trial and during cross-examination,

he has stated that they maintain record of supplies to Pakistan Steel Mills and he further deposed that he can produce the record before the Court. The counsel for the applicants instantly made a request to the trial Court that the complainant may be directed to produce the record of business. The said request was declined by the trial Court by order dated **11.08.2018**. The applicants filed Criminal Revision Application against the said order which was also dismissed by the VI-Additional Sessions Judge, South, Karachi by order dated **04.12.2018** impugned herein.

3. I have heard learned counsel of the applicants and perused the record as well as the impugned order. The record shows that while cross examining the complainant, in reply to question the complainant stated that they maintained record of supplies to Pakistan Steel Mill and he can produced the record of business, therefore, learned counsel for the applicants was required to satisfy the Court that record sought to be called had any relevance to the defense plea or otherwise needed to bring the malafide of complainant in lodging FIR for the crime under **Section 489-F PPC**. It may be mentioned here that neither any application for production of documents was filed by applicants, nor it was an order. It was just a NOTE mentioned in cross examination recorded by Court. No specific document was pointed out. In its note, the learned trial Court has specifically observed that:-

The prosecution has relied its case upon specific documents which need to be disproved by the defence. To call for each and every documents of record is not necessary and it will cause further delay. The production of requested documents does not seem to be relevant in this case and as per the contents of section 489-F, PPC the defence is subject to prove that the cheques were not given dishonestly or that they made arrangement for honoring those cheques. Therefore, the request of learned defence counsel does not consider merits

and same is turned down. The learned defence counsel is directed to further proceed the case.

The above observations show that the trial court has rightly declined the request of the counsel for the applicants for calling the record. Apparently the counsel for the applicants has made such request to delay the case as much as he can.

4. In view of the above, no case is made out for exercising inherent powers of High Court to stifle proceedings of trial, therefore, instant Criminal Miscellaneous Application was dismissed in limini by short order dated **04.03.2019** and these are the reasons for the same.

JUDGE

Karachi
Dated:11.03.2019

Ayaz Gul