

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.139 of 2018

Present: **Mr. Justice Nazar Akbar**

Applicant : Talha Bin Zia, through
Mr. Khwaja Muhammad Azeem, advocate.

Versus

Respondent No.1 : Court of Special Judge, Anti-Corruption,
(Provincial) Karachi.

Respondent No.2 : Akhtar Hussain.

Respondent No.3 : DSP Raja Amjad, posted at AVCC, Karachi.

Respondent No.4 : SIP Niaz, posted at AVCC, Karachi.

Ms. Rahat Ahsan, Additional P.G.

Date of Hearing : **12.04.2019**

Date of Decision : **12.04.2019**

J U D G M E N T

NAZAR AKBAR, J.- Appellant Talha Bin Zia has preferred this Criminal Revision Application against the order dated **15.12.2017** delivered by learned Special Judge, Anti-Corruption (Provincial) Karachi, whereby Direct Complaint No.29/2017 filed by the applicant/complainant under Sections 200 of the Cr.P.C was dismissed.

2. To be very precise, the facts of the case are that on 30.07.2017 the appellant/complainant lodged FIR No.193/2016 under Section 365-A of the PPC, which was investigated by Respondent No.2 during which on his demand, the complainant paid Rs.85,000/- as bribe. The investigation was subsequently transferred to Respondent No.3 to whom the complainant paid Rs.135,000/- on his demand for the arrest of the accused in the said FIR and Respondent No.3 has also received Rs.180,000/- from the accused of the said FIR which was

witnessed by cousin of complainant namely Aijaz Hussain due to which Respondent No.3 has not arrested the accused. The accused of said FIR at the instance of Respondents/accused issued threats to the appellant/ complainant to withdraw from FIR otherwise “B” class report will be submitted. Subsequently Respondents/accused submitted “C” class report in the said FIR. Thereafter the appellant/ complainant made complaint against the accuse/ Respondents before ACE- Karachi but no action has been taken against the accused/Respondents, therefore, the appellant/ complainant has filed Direct Complaint against the accused/ Respondents.

3. After recording statement of complainant under Section 200 Cr.P.C as well as statement of his cousin Aijaz Hussian under Section 202 Cr.P.C, the matter was sent up for further enquiry to the Director ACE Karachi, who entrusted the same to the Enquiry Officer, Imtiaz Ali Channa of ACE, East Karachi, who submitted enquiry report. The learned trial Court after hearing learned counsel for parties dismissed the said Criminal Complainant by order dated **15.12.2017**. The said order is impugned herein this Criminal Revision Application.

4. Learned counsel for the applicant contended that the trial Court has misread the documentary as well as ocular evidence of the appellant/ complainant and his witness, therefore, the trial Court has committed gross illegality while passing the impugned order as appellant/ complainant and his witness have fully supported the contention of the appellant. He further contended that the learned trial Court has only considered the enquiry report submitted by the official, who is from the same department.

5. I have perused the impugned order in which the learned trial Court has observed as under:-

After hearing, I have perused the material available on record including enquiry report, which vetted that complainant allegedly pay more bribe to accused for proper investigation otherwise, he issued threats to conclude his FIR in 'B'-class. In the meanwhile he allegedly paid about Rs.135,000/- when he failed to pay more bribe, then accused of direct complaint received bribe of Rs.180,000/- from accused of his FIR in his and his cousin-Aijaz presence, then filed 'C'-class report. It is worth to note here that his cousin was not shown witness of bribe which he paid to accused but he was witness of bribe paid by accused of his FIR to accused of direct complaint, which is uneven.

Moreover, it is averred at para-4 of comments at enquiry report that as per CDR accused had not demand bribe from complainant, therefore he had not disclosed the facts regarding CDR in this direct complaint.

Besides above, it creates doubt, when accused of this direct complaint issued threats that if he failed to pay bribe, they will submit 'B'-Class report then as to why they submitted 'C'-class report and why not 'B'-Class report which shows that after due investigation they submitted report as per merits. Even otherwise, if he is aggrieved then he can challenge the 'C'-Class report before competent Court rather than to file this direct complaint.

The above observations of the trial Court clearly show that the case of the appellant/complainant was of no evidence, therefore, the learned trial Court has rightly dismissed the Direct Complaint filed by the appellant/complainant.

6. In view of the above facts, the learned trial Court has rightly passed the impugned order and the same does not require interference by this Court, therefore, this Criminal Revision Application is dismissed.

JUDGE

Karachi

Dated: 12.04.2019

Ayaz Gul