

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD

CP No. D- 3383 of 2018

Present:

Mr. Justice Nadeem Akhtar
Mr. Justice Irshad Ali Shah

Mst. Qaima and another ----- Petitioners

Vs.

Province of Sindh and others ----- Respondents

Date of Decision: 25.06.2019

Mian Taj Muhammad Keerio, advocate for the applicants
Mr. Allah Bachayo Soomro, Addl.A.G.
Mr. Shahzado Saleem Nahiyoon, D.P.G.

ORDER

IRSHAD ALI SHAH, J: - The applicants by way of instant application have prayed that contempt proceedings be initiated against contemnors allegedly for their failure to obey the order dated 13.2.2019 passed by this Court, whereby the petition filed by the applicants for quashment of FIR No. 70 of 2018 under Section 365-B, 34 PPC r/w Section 3/4 of Sindh Child Marriage Restraint Act was disposed of with the following observation:

“ The investigating officer of the case is present in Court, who has recorded statement of petitioner No.1 Mst. Qaima, in which she has stated that she has contracted marriage with one Feroz Gul son of Imamdin out of her free will and consent and that she has not been kidnapped / abducted by anyone. She further states that false FIR has been registered against her husband by her parents due to their free will marriage. Under the circumstances, the Investigating Officer of the case is directed to submit final report on the basis of the statement of petitioner No.1 Mst. Qaima, the alleged abductee, before the concerned Magistrate and the learned Magistrate is directed to pass appropriate order on the report, if any, submitted by the Investigating Officer of the case in accordance with law after hearing the respective parties and decide the case within 15 days. However, the official respondents are directed to act strictly in accordance with law and shall not cause any harassment to the petitioners at the behest of the private respondents and they will ensure that the petitioners are provided protection.”

2. It is contended by learned counsel for the applicants that no offence at all has taken place and the FIR which was lodged against the applicants and their associates was false and it lost its validity after statement of the alleged

abductee whereby she denied her abduction, therefore, there was no room for the contemnors but to have disposed of the subject FIR under 'C' class. By not doing so, as per learned counsel for the applicants, the contemnors have dis-obeyed the order of this Court as such they are liable to be prosecuted accordingly.

3. It is contended by learned A.A.G. and A.P.G. that no case for initiating contempt proceedings against the alleged contemnors is made out. By contending so, they sought for dismissal of instant contempt application, as same according to them has been filed by the applicants only to create harassment for the alleged contemnors with ulterior motives.

4. We have considered the above arguments and perused the record.

5. Admittedly, the subject FIR was lodged for offence punishable under Section 365-B, 34 PPC read with Section 3/4 of Sindh Child Marriage Restraint Act, 2013 by one Abdul Khaliq with PS Mithi alleging therein abduction of his minor daughter Mst. Qaima at the hands of Feroze Gul and others. Mst. Qaima during course of investigation and on filing of petition before this Court, denied her abduction and on the basis of her statement so recorded the penal section with regard to her abduction (365-B PPC) was omitted by the police while submitting such report before the Magistrate having jurisdiction. Consequently, the cognizance of the offence against the culprits involved in the subject FIR was taken by learned trial Magistrate for offence punishable under Section 3/4 Sindh Child Marriage Restraint Act, 2013, for child marriage. It was done on the basis of evidence collected by the police during course of investigation. By doing so, no dis-obedience to the order of this Court was committed by any of the alleged contemnor. The direction of this Court against the learned trial Magistrate was only to the extent that he on police report may pass **an appropriate order** which he has passed. If the applicants are aggrieved of the above said order of learned trial Magistrate then they could challenge the same before the appropriate forum in accordance with law. No case for initiating contempt proceedings against any of the alleged contemnor is made out. Consequently the instant contempt application being misconceived is dismissed accordingly.

JUDGE

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