

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Crl. Misc. Appl. No.215 of 2019**

Date	Order with signature of Judge
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1. For orders on M.A. No.4266/2019 (U/A)
2. For orders on M.A No.4267/2019 (Ex/A)
3. For hearing of main case

**07.05.2019**

Mr. Muhammad Tariq Siddiqui, advocate for the applicant,

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**NAZAR AKBAR,J:-** This Criminal Miscellaneous Application is filed by the applicant against the order dated **02.05.2019** passed by the V1th Addl. Sessions Judge, Central Karachi in Habeas Corpus Application **No.96/2019**.

2. Learned trial Court after hearing the parties, by order dated **02.05.2019** has dismissed Habeas Corpus Application **No.96/2019** under Section 491 Cr.P.C filed by the applicant. Therefore, the applicant has preferred instant Cr. Misc. Application.

3. I have heard the learned counsel for the applicant and perused the record.

4. The perusal of the impugned order shows that the learned trial Court has rightly observed that:-

“It is well settled law that Section 491 Cr.P.C and G&W Act 1890 are entirely different and the provisions are neither mutually exclusive nor can overlap or destroy the other. Disputes as to Guardianship as well as restoration of custody of minor(s) should ordinarily be decided by a Court under the G&W Act as that is the normal remedy for deciding such disputes but in exceptional cases Hon’ble High Court and Sessions Court can interfere to order restoration, if custody which has been disturbed illegally or improperly. Moreover under Section 491 Cr.P.C this Court being

Sessions Court in the matter of custody of minor of tender age has jurisdiction under Section 491 Cr.P.C which remedy is definitely more efficacious, speedy and appropriate but this Court has also to see whether the custody has been removed illegally or forcefully, however in the present case, the custody of minor/detenu is with the mother/respondent which cannot be termed as illegal, or even improper”.....

5. In view of the above, no case is made for interference in the impugned order by this Court; therefore, this Crl. Misc. Application being devoid of any merit is dismissed alongwith listed applications.

JUDGE

SM