

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Crl. Misc. Application No.S-427 of 2019.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE.
-----------------	--

For hearing of main case.

Date of hearing                      29.07.2019.

Mr. Zaffar Ali Shah Advocate for applicant.  
Mr. Zulfiqar Ali Jatoi Addl:PG.

\*\*\*\*\*

Through captioned Crl. Misc. application, applicant Shafi Ahmed Shah has impugned order dated 03.10.2014 passed by I-Civil Judge & Judicial Magistrate, Sukkur whereby summary report submitted by Investigating Officer under 'C' Class was approved under 'B' Class.

It is, *inter alia*, contended by learned counsel for the applicant/complainant that the complainant had lodged the FIR against the private respondents upon disappearance of Mst. Samra D/o Shabir Ahmed Shah however, upon application u/s 491 Cr.P.C before learned Sessions Judge, Sukkur the said Samra appeared before the Court and made statement that she was not abducted nor kidnapped by anyone nominated in the FIR and contracted free will marriage with Mohammad Shahzad upon such statement the application was disposed of. Further contended that I.O after investigation and recording statement submitted his report u/s 173 Cr.P.C before learned Civil Judge/J.M, Sukkur for approval. In the said report it was recommended that the FIR may be disposed of in 'C' Class. However, learned Civil Judge/J.M, Sukkur did not consider and directed to dispose of the FIR under 'B' Class. Per learned counsel the applicant is aged person of more than 80 years old and FIR was not lodged on the basis of any malafide. He further submits that recommendation of Police was based on the investigation report and statement of Mst. Samra, however, learned trial Court did not accept the same and passed impugned order. Lastly he argued that he

would be satisfied and would not press instant Crl. Misc. Application on merits, if impugned order passed by learned Magistrate is modified and report submitted by investigating officer is approved in "C" Class instead of "B" Class. In support of his contention he relied upon case of Shamshad Ali v. The State (2017 YLR Note 287) and Mohammad Sachal and 4 others v. The State and 2 others (2018 P.Cr.LJ Note 58)

Learned Addl.PG did not support the impugned order and tendered his no objection to the above modification.

Heard learned counsel for the applicant/complainant and perused the record, which reveals that the investigating officer has recommended for disposal of case under "C" Class but learned Magistrate without giving show cause notice to the applicant/complainant, approved the report in "B" Class. Learned Addl.PG has tendered no objection. Accordingly impugned order dated 03.10.2014 passed by I-Civil Judge & Judicial Magistrate, Sukkur is modified to the extent of approving report submitted by investigating officer in "C" Class instead of "B" Class. Consequently instant Crl. Misc. Application is disposed of in above terms.

**J U D G E**

Ihsan.

