

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 232 of 2020

Shaikh Muhammad Akbar
Through attorney Ali Haider Jatoi.....Applicant

Versus

The State and another.....Respondents

Date of hearing & Order : **20.07.2020.**

Mr. Asadullah Jaral, for applicant

Mr. Meeral Shah, APG for State

ORDER

FAHIM AHMED SIDDIQUI, J:- Through instant criminal Misc. application, the applicant has questioned two impugned orders i.e., (1) dated 02.03.2020 passed by learned XIV-Judicial Magistrate Karachi South and (2) dated 03.07.2020 passed by learned XI-Additional Sessions Judge Karachi South respectively. Through instant application, the applicant is seeking suspension of order dated 02.03.2020 passed by learned Judicial Magistrate for blocking CNIC of the applicant.

2. The case of the applicant is that he is involved in Crime No.06/2020 of PS Mithadar under Section 489-F PPC and subsequent to lodgment of FIR, a report was placed by I.O seeking blockage of CNIC of applicant on account of his becoming absconder. On such report, learned Judicial Magistrate passed initial impugned order whereby CNIC of the applicant was blocked. Such order was challenged but learned Additional Sessions Judge through second impugned order upheld the order of learned Judicial Magistrate.

3. Learned counsel for the applicant submits that the applicant is a law abiding citizen and FIR was lodged against him regarding a transaction but the applicant remained unaware of such FIR as according to him, address mentioned in charge sheet is incorrect as the applicant is permanent resident of Gujranwala and presently residing at Lahore and both such addresses are very much available in his CNIC. He submits that I.O without bothering to approach to proper addresses of the applicant, has furnished a misconceived report before learned Judicial Magistrate due to which impugned order was passed. He further submits that CNIC of an absconding accused can only be blocked after declaring him absconder under initiating proceedings under Section 87 & 88 CrPC. He categorically states that no such proceedings were ever initiated or completed against the applicant. Learned counsel further submits that the applicant intends to surrender before the trial Court but due to blockage of his CNIC, it becomes impossible for the applicant as his affidavit cannot be sworn by Identification branch of district court or High Court.

4. Learned prosecutor submits that a criminal case has been lodged against the applicant in which neither he has sought pre-arrest bail nor approached to I.O of the case with proper justification, however, he frankly conceded that no proceedings under Section 87 & 88 CrPC have been initiated against the applicant.

5. I have heard the arguments and have gone through the entire material placed before me. It is a settled law that unless it is established that a person purposely and knowingly is absconding, adverse proceedings in respect of digitally impounding of his CNIC should not be taken place. In the instant case, since neither Judicial Magistrate nor trial Court has declared the applicant absconder by passing requisite order under Section 87 & 88 CrPC; therefore, impugned orders appear to be passed harshly. Resultantly, both aforesaid impugned orders are set aside

and NADRA authorities are directed to unblock/not digitally impound the CNIC of the applicant till further order, if any, passed by the trial Court in this regard.

Instant Crl. Misc. Application alongwith pending application is disposed of accordingly.

J U D G E