

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Miscellaneous Application No.S-638 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For hearing of main case.

11.01.2021.

Mr. Shamsuddin Khushk, Advocate for the applicant.
Ms. Sobia Bhatti, A.P.G for State.
Mr. Sikandar Ali Soomro, Advocate for the respondents
No.3 and 4.

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Irshad Ali Shah J.- It is a case of the applicant he extended loan to his brother-in-law Muhammad Nawaz on assurance of his wife Mst. Rubina for having a business, it was returned to him to some extent by his wife Mst. Rubina in shape of cheque, it was bounced by the concerned Bank when was presented for encashment, he, therefore, lodged an F.I.R of the above said incident with the police, it was recommended to be cancelled under 'B' Class by police, however it was cancelled under 'C' Class by learned Civil Judge & Judicial Magistrate-I (MCTC) Dadu vide his order dated 19th September 2019, which is impugned by the applicant before this Court by way of instant criminal miscellaneous application under section 561-A Cr.P.C.

2. It is contended by learned counsel for the applicant that the case of the applicant was not liable to its disposal under any of the clause. By stating so, he sought for setting aside of impugned order with direction to learned Trial Magistrate to take cognizance of the incident.

In support of his contention, he has relied upon the case of *Qazi Faisal Wajid Vs. Munir Ullah Khan and others (2013 P. Cr.LJ 400)*.

3. Learned Assistant Prosecutor General, for the State and learned counsel for the private respondents by supporting the impugned order have sought for dismissal of instant criminal miscellaneous application, by contending that the learned Trial Magistrate has already favoured the applicant by converting the disposal of case from 'B' to 'C' class.

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

5. The FIR of the incident has been lodged by the applicant with delay of about one month and thirteen (13) days that too after having a recourse under section 22-A&B, Cr.P.C such delay having not been explained plausibly could not be overlooked. Loan was allegedly extended by the applicant to his brother-in-law Muhammad Nawaz, it was returned to some extent by his wife Mst. Rubina in shape of cheque which appears to be surprising. Mst. Rubina it is said now has sought for dissolution of her marriage with the applicant and this is said to be a reason with the applicant to involve her and her brother in false cases by misusing the blank cheque. The case on proper investigation was rightly recommended by the police to be canceled under 'B' Class, if it would have been cancelled under 'B' Class then it would have entailed the prosecution for the applicant for initiating false case. In these circumstances, it is rightly being contended by learned APG for the State and learned counsel for the private

respondents, that the applicant has been favoured by learned Trial Magistrate by disposing his case under 'C' Class.

6. The law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances. In that case the quashment of F.I.R was sought for. In the instant case no issue for quashment of F.I.R is involved.

7. No case for making interference with the impugned order, is made out, consequently, the instant criminal miscellaneous is dismissed.

JUDGE

*Muhammad Danish Steno**