

Order Sheet
**IN THE HIGH COURT OF SINDH CIRCUIT COURT
AT HYDERABAD**

C.P No.S-516 of 2020
Muhammad Azeem v. Province of Sindh & others.

Present:
Mr. Justice Arshad Hussain Khan.

1. For order on MA No.39 / 2021.
2. For order on MA No.40 / 2021.

12.02.2021

Mr. Noorul Ameen Sipio advocate for petitioner.

Mr. Wali Muhammad Jamari Assistant A.G. Sindh.

1. Urgency disposed of.
2. The petition is restored to its original stage. At the request of learned counsel for the petitioner, the petition is taken up for hearing.

Through instant constitutional petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has made the following prayers: -

- (A). *That this Honourable Court may kindly be pleased to direct the respondent No.2 to 4 to conduct the inquiry from honest officer and record the statement of petitioner in connection with the incident took place on 22.10.2020 and 23.10.2020 and after conducting inquiry report shall be submitted before this Honourable court.*
- (B). *That this Honourable Court may kindly be pleased to direct the respondent No.3 to initiate the legal / department action against the respondent No.5 to 11 and lodged the FIR against them.*
- (C). *That this Honourable Court may kindly be pleased to direct respondents No.5 to 11 do not create any sort of harassment to the petitioner and co-villagers.*
- (D). *That this Honourable Court may kindly be pleased to direct the respondent No.2 to 4 to provide the legal / lawful protection to the petitioner and his family members in accordance with law.*
- (E). *That any other relief which this Honourable Court may deem fit and proper to award the petitioner.*

From perusal of the petition, it appears that two FIRs. bearing No.51 / 2020 and 52 / 2020 in respect of honor killing (*Karo-Kari*) were registered at PS Gupchani against the relatives of petitioner. According to petitioner, after registration of aforesaid FIRs, on 20.10.2020, the respondents No.5 to 11, who are police officials, have attacked upon his house/village and forcibly ousted the petitioner and other villagers from the houses and again on 21.10.2020 they demolished their houses, and issued threats for dire consequences; hence, they have illegally acted by committing a cognizable offence. The petitioner, therefore, prayed for legal actions against the said respondents and protection to the petitioner and other villagers.

Pursuant to notices, the respondents No.5 and 7 to 11 filed their parawise comments, taken on record. Copies whereof, provided to the learned counsel for the petitioner. In their comments, the respondents have denied to have committed any offence, however, they furnished list of crimes registered against the relatives of petitioner, which included his brothers and brother-in-law.

Learned counsel for the petitioner, *inter alia*, contended that despite registration of cases against the relatives of petitioner, the police officials have no authority to take law in their hands and act in illegal manner. When confronted to the learned counsel as to whether he has exhausted remedy for redressal of petitioner's grievance in view of dicta laid down by a division bench of this Court in the case of '*ABDUL HAMEED and another v. PROVINCE OF SINDH through Secretary Home Department and 8 others*' reported in **PLD 2019 Sindh 168**, he could not reply and contended that they are unable to approach the competent forum as the police officials have surrounded the premises and prayed for legal actions against official respondents.

On the other hand, learned Assistant A.G. Sindh contended that as and when the police in order to arrest the absconders, who are near relatives of petitioner, the whole community is creating hurdles and do not allow the police party to perform their lawful duties. He further contended that in order to save the skin of absconders, the petitioner has filed instant petition with *mala fide* intention, hence, he prayed for its dismissal.

Heard and perused the record.

Admittedly a series of cases is registered against the relatives of petitioner, who are absconders in those cases. It is prime duty of the police officials to deal with in accordance with law and ensure the proper law and situation prevailing at the time of proceedings. The life and properties of the peoples are safeguarded and protected under Constitution of the Islamic Republic of Pakistan, 1973. However, the wording of Article 199 (1) of the Constitution of Islamic Republic of Pakistan, 1973, is very much clear which reads "Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law" regarding directly approaching the High Court in the above matters. It means that where there is any adequate remedy available the constitutional jurisdiction of the High Court cannot be invoked before availing that remedy. In this regard, I have no hesitation to mention here that under the writ jurisdiction directly with regard to the matters relating to harassment and protection, seeking directions for registration of criminal cases and to order for inquiry into the matter may not be appreciated in presence of efficacious and alternate remedy is available with the petitioner to exhaust it firstly before S.P (complaint cell) and then before Ex: Officio, Justice of Peace concerned.

8. In view of the above, facts and circumstances, as well as the dicta laid down in the case of 'Abdul Hameed' (supra), instant petition being misconceived and not maintainable is accordingly **dismissed.**

JUDGE