

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D-3427 of 2017

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

30.09.2019.

Mian Taj Muhammad Keerio, advocate for petitioner.
Mr. Muhammad Ismail Bhutto, Additional Advocate General.
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The facts in brief necessary for disposal of instant constitutional petition are that the petitioner by way of filing an application u/s 22-A and B Cr.P.C sought for direction against Circle Officer Anti-Corruption, Umerkot to record his statement for purpose of FIR to investigate the misappropriation of funds in Sindh Education Foundation. It was disposed of by learned Sessions Judge / Ex-officio Justice of Peace, Umerkot on 27.08.2016. The statement of the petitioner was recorded by Anti-Corruption Officials at Umerkot and then Deputy Director Anti-Corruption Mirpurkhas wrote a letter to Director Anti-Corruption Establishment Sindh at Karachi for permission to record FIR of the incident vide his letter dated 30.01.2017 as per requirement of Anti-Corruption Law, as according to him, an offence cognizable by Anti-Corruption Establishment is made out. It was declined by Director Anti-Corruption Establishment Sindh at Karachi through his letter dated 22nd September, 2017, by making a conclusion that no offence cognizable by Anti-corruption Establishment is made out. The petitioner has impugned such letter / order of Director Anti-Corruption Establishment Sindh at Karachi

before this Court by way of instant constitutional petition with prayer to set aside the same.

2. It is contended by learned counsel for the petitioner that Director Anti-Corruption Establishment Sindh at Karachi by declining to grant permission to record FIR of the incident has provided shelter to the corruption and corrupt persons, same as such is liable to be set-aside by this Court in exercise of its constitutional jurisdiction.

3. It is contended by learned A.A.G that the petitioner has an alternate remedy to exhaust by way of filing a direct complaint of the incident before the Court having jurisdiction. By contending so, he sought for dismissal of instant constitutional petition being incompetent.

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

5. The FIR of the incident could only be recorded when the offence is found to be cognizable. In the instant case, two rival claims have been formed, one by the Deputy Director Anti-Corruption Establishment Mirpukhas, whereby he has declared the offence to be the cognizable by Anti-Corruption Establishment and other by Director Anti-Corruption Establishment Sindh at Karachi, whereby he has declared the offence to be non-cognizable by the Anti-Corruption Establishment. The Director Anti-Corruption Establishment Sindh at Karachi obviously is authority to order registration of FIR and his opinion has to prevail. If it is taken into consideration then offence alleged is non-cognizable by Anti-

Corruption Establishment. In that situation, no justification is pointed out to set-aside order / letter of Director Anti-Corruption Establishment Sindh at Karachi. If the petitioner is having a feeling that an offence which is cognizable by Anti-Corruption Establishment is made out, then he has an alternate and adequate remedy to exhaust by filing a direct complaint of the incident before the Court having jurisdiction, if so is advised to him. Whenever, an alternate and adequate remedy is found available, then the constitutional jurisdiction of this Court could hardly be invoked.

6. Consequent upon above discussion, instant constitutional petition being misconceived is dismissed accordingly.

JUDGE

JUDGE

Ahmed/Pa,