

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No.D-1383 of 2015

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

Mst.Sajida Yousuf Petitioner
Versus
The Director FIA Sindh Karachi and others. Respondents

Date of Hearing: 28.01.2020
Date of Decision: 28.01.2020

M/s. Shabana Ishaque and Sathi M.Ishaque, advocate for petitioner.
Mr. Ahsan Imam Rizvi, advocate for respondent No.4 & 5.
Mr. Kashif Paracha, DAG.

ORDER

IRSHAD ALI SHAH, J:- The facts in brief necessary for disposal of instant petition are that the petitioner was allegedly found committing theft of Electricity by a joint team consisting of officials of K-Electric and Federal Investigation Agency, therefore, FIR bearing Crime No.63 of 2013 under section 39/39-A of Electricity Act, 1910 read with section 379/109 PPC was registered against her and another person with P.S. FIA A.P.T.U. at Karachi, therefore, the petitioner by way of filing of instant petition has mainly sought for quashment of above said FIR with direction to the officials concerned to restore the Electricity supply to the premises in her possession.

2. It is contended by learned counsel for the petitioner that the petitioner has been involved in this case falsely at the instance of her opponents with whom she is disputed over the ownership of the property and such litigation is going on before the Courts having jurisdiction. By contending so, she sought for quashment of the subject FIR with direction

to the officials to restore the Electric supply to the premises which is in possession of the petitioner.

3. Learned counsel for the respondents No.4 & 5 and learned DAG have sought for dismissal of the instant petition by rebutting the above contention by stating that the cognizance of the case has already been taken by the court having jurisdiction. In support of their contention they have relied upon the cases of *Syed Mujahid and others Vs. Province of Sindh and others (PLD 2014 Sindh 472 and Col.Shah Sadiq Vs. Ashiq and others (2006 SCMR 276)*.

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

5. There is no denial to the fact that the cognizance of offence allegedly committed by the petitioner has already been taken by the court having jurisdiction. After cognizance of the offence by the court having jurisdiction legally the quashment of FIR could not be ordered.

6. In case of *Director General Anti-corruption Establishment, Lahore and others Vs. Muhammad Akram Khan and others (PLD 2013 Supreme Court 401)*, it has been held by the Honourable Supreme Court that;

“Quashing of F.I.R. after Trial Court had taken cognizance of the offence—Legality—When Trial Court had taken cognizance of a case, F.I.R. could not be quashed and the fate of the case and of the accused persons challaned therein was to be determined by the Trial Court itself—Accused person, in such circumstances, could avail the remedy under Ss.249-A & 265-K, Cr.P.C. to seek his premature acquittal, if the charge was found to be groundless or there was no possibility of his conviction”.

7. If the petitioner is having a feeling that she being innocent has been involved in a false case malafidely at the instance of her opponents then she could prove her innocence by joining the trial and on joining trial she could also exhaust remedy under section 249-A/265-K Cr.P.C, as the case may be before learned trial court in accordance with law.

8. Having discussed above, it could be concluded safely that no case for quashment of subject FIR or ordering the restoration of Electricity supply to the premises in possession (if any) of the petitioner is made out by this court in exercise of its constitutional jurisdiction.

9. Above are the reasons of our short order dated 28.01.2020, whereby the instant petition was dismissed.

JUDGE

JUDGE