

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

Criminal Miscellaneous Application No.S-62 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections. 2. For hearing of main case. 3. For hearing of M.A. No.930/2021.

12.03.2021

Mr. Zubair Ahmed Khuhawar, Advocate for applicant.

Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.

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It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party only to make a cross version of the incident; the very case on investigation was recommended by the police for its disposal under 'C' class but the learned Trial Magistrate took the cognizance of the incident; the veracity of the medical certificate is under examination of the board; the applicant is an old lady and it is hard for her to appear before learned Trial Court on each and every date of hearing. By contending so, he sought for quashment of the proceedings of the case against the applicant by way of instant Criminal Miscellaneous Application under section 561-A Cr.P.C. In support of his contention, he relied upon case of *Yasmin Gul Khanani and another Vs. Tariq Mehmood and 2 others* [2013 YLR 2716].

2. Learned A.P.G for the State has sought for dismissal of instant Criminal Miscellaneous Application by contending that the prosecution could not be deprived of its right to prove its case by leading evidence.

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

4. No doubt on investigation the case against the applicant was recommended by the police to be canceled under 'C' Class but such recommendation was not accepted by learned Trial Magistrate, who took the cognizance of the incident well within his right probably for the reason that the opinion of the police is not binding upon the Courts. The order whereby the cognizance of the incident was taken by learned Trial Magistrate obviously has not been impugned by the applicant, which appears to be surprising. The applicant is named in F.I.R specifically. In that situation, the proceedings of the case against her could not be quashed only for the reason that she is old lady and veracity of medical certificate in respect of injuries sustained by the injured of the case is under examination before board.

5. The case law which is relied upon by the learned counsel for the applicant is on distinguishable facts and

circumstances. In that case, the dispute between the parties was of civil nature. Instant case is covering the injuries.

6. Consequently, the instant Criminal Misc. Application being misconceived is dismissed.

JUDGE

*Muhammad Danish Steno**