

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Miscellaneous Application No. S - 465 of 2012

For Katcha Peshi

Copy of order issued to SSP Ghotki at Mirpur Mathelo for compliance.

07.09.2012

Mr. Achar Khan Gabole Advocate for applicant.

Mr. Rasool Bakhsh I.Siyal Advocate for respondent No.3.

Mr. Muntazir Mehdi A.P.G. for the State.

This Application has been filed by Mst. Sadori under Section 491 Cr.P.C. read with Section 561-A Cr.P.C. praying that Rule Nisi be issued to respondents No. 1 and 2 with a direction to recover the detinue Mst. Sikandar from illegal confinement of respondent No.3 Arbelo, to produce her before this Court, and to set her at liberty after recording her statement.

2. The case of the applicant is that the detinue Mst. Sikandar, who is her real daughter, was married to one Abdul Latif, but she developed illicit terms with respondent No.3 Arbelo, who is the brother-in-law of the detinue, that is, husband of the younger sister of the detinue and younger daughter of the applicant. The applicant has alleged that the detinue left the house of her husband and went to the house of respondent No.3 Arbelo and her younger sister to stay with them. The applicant has also alleged that her younger daughter / sister of the detinue, namely, Mst. Zulfat W/O respondent No.3 Arbelo asked her parents to take the detinue Mst. Sikandar back to their house as her husband Arbelo and the detinue have developed illicit relationship. Against respondent No.3 Arbelo, it has been alleged by the applicant that he did not want to release the detinue, therefore, he threatened the applicant and her family members that the detinue will be murdered in case he is pressed by any one to release the detinue. It has been further alleged that in the above background, respondent No.3 Arbelo compelled the detinue to file C.P. No. S-2071 of 2012 based on false

and concocted facts and sought an order of protection from this Court against the alleged harassment by her family members. Thereafter, the detinue contacted the applicant through a mobile phone and informed her that she is in wrongful confinement of respondent No.3 Arbelo, who also beats his wife and the detinue. The applicant tried to lodge the above complaint with the Station House Officer, Police Station Adilpur, District Ghotki (respondent No.2), but her complaint was not entertained nor her statement was recorded.

3. This application was filed on 08.8.2012. After filing of this application, the detinue Mst. Sikandar filed before this Court a separate Criminal Miscellaneous Application bearing No. S-518 of 2012 against her family members, including the above named applicant, and the official respondents representing police authorities of Districts Sukkur, Ghotki and Larkana. In her said application, the detinue Mst. Sikandar alleged inter alia that she was declared as Kari by her husband and was divorced by him whereafter she went to her parents' house to seek shelter ; that her ex-husband was trying to kill her and her family members were planning to sell her to a stranger ; that in order to save her life, she left the house of her parents and went to the house of her younger sister Mst. Zulfat W/O Arbelo (respondent No.3 in the instant application) to stay with them ; that on 28.8.2012 she and her sister Mst. Zulfat alongwith her two minor daughters were abducted by her family members in connivance with the police officials of Districts Sukkur and Ghotki ; and that she managed to escape from the wrongful confinement of her captives, but her sister Mst. Zulfat and her two minor daughters were still missing. In view of the above allegations, Mst. Zulfat and her two minor daughters baby Seema (aged about two years) and baby Sumera (aged about two months) were shown as detenuess by Mst. Sikandar in her Criminal Miscellaneous Application bearing No. S-518 of 2012, and it was prayed therein by her that her statement be recorded and Rule Nisi be issued for recovery of the above named three detenuess.

4. Today the aforementioned Criminal Miscellaneous Application bearing No. S-518 of 2012 filed by Mst. Sikandar (detinue in the instant application) was also fixed along with the instant application, therefore, both these matters have been taken up together with the consent of the

parties and counsel. Mst. Sikandar (detenue in this case), her sister Mst. Zulfat (detenue No.1 in Cr. Misc. App. No. S-518/2012) have appeared and Mst. Zulfat has also brought one of her minor daughters baby Sumera. Their real father, real mother and real brother are also present in court. Since the SIP Budhoo Khan Kolachi, SHO P.S. Adilpur, District Ghotki (respondent No.6 in Cr. Misc. App. No. S-518/2012) is also present in court, with the consent of all the learned counsel and the parties, he was directed by me in Cr. Misc. App. No. S-518/2012 to record the statements of Mst. Sikandar (detenue in this case), Mst. Zulfat (detenue No.1 in Cr. Misc. App. No. S-518/2012) and their real mother (applicant in this case). After recording such statements, the said SHO has produced the same before this Court, copies whereof have been received by all the learned counsel present today.

5. In her statement, Mst. Sikandar / detenue has confirmed that her brohter-in-law Arbelo (husband of her sister Mst. Zulfat) brought her today before this Court after issuing threats ; that Arbelo and his companions have made her life insecure ; that Arbelo has threatened her that in case she does not join him, he will murder her father and brothers ; that Arbelo compelled her to file Cr. Misc. App. No. S-518 / 2012 ; that Arbelo has committed Zina-bil-Jabr with her ; that she does not want to go to Arbelo ; that she wants to go to her parents ; and that her custody may be handed over to her father, mother and brother and justice may be provided to her.

6. Mst. Zulfat has confirmed in her statement that her husband Arbelo developed illicit terms forcibly with her sister (the detenue) and committed Zina-bil-Jabr with her ; that her sister / the detenue has been detained by Arbelo in his house and Arbelo has thrown her (Mst. Zulfat) out of his house ; that Arbelo has threatened to kill her (Mst. Zulfat) by declaring her kari ; that Arbelo has detained her (Mst. Zulfat's) minor daughter Seema (aged about two years) ; and that protection may be provided to her.

7. The applicant Mst. Sadori, who is the real mother of Mst. Sikandar and Mst. Zulfat, has also confirmed in her statement that the detenue was detained by Arbelo by using force ; that Arbelo has committed Zina-bil-Jabr with the detenue ; that Arbelo is issuing threats

of dire consequences ; that Arbelo has threatened her that in case any complaint is made against him, he will kill his wife Mst. Zulfat by declaring her kari and will never hand over the detenue to her parents.

8. Mst. Sikandar (the detenue), Mst. Zulfat (detenue No.1 in Cr. Misc. App. No. S-518/2012) and the applicant / their real mother have reiterated their above statements before me also. Since the statements given and recorded by them are very disturbing and the same are prima facie sufficient to establish an offence of Zina-bil-Jabr committed by Arbelo S/O Ghulam Muhammad, the SHO P.S. Adilpur, District Ghokti present in Court was directed by me through order passed today in Cr. Misc. App. No. S-518/2012 to register FIR today against the said Arbelo S/O Ghulam Muhammad and to take action against him in accordance with law. I also directed the said SHO to treat the statements recorded by him in Court today as statements recorded under Section 154 Cr.P.C., and to record further statements in this behalf, if necessary. By the said order passed today in Cr. Misc. App. No. S-518/2012, the said SHO was further directed to conduct a raid on the house of the said Arbelo S/O Ghulam Muhammad immediately in order to recover minor baby Seema (detenue No.2 in Cr. Misc. App. No. S- 518/2012), to hand over the said minor to her mother Mst. Zulfat in case she is recovered, and also to register FIR against Arbelo in this behalf.

9. The statements recorded today in court have revealed that the detenue has voluntarily decided to go to her parents. It was, therefore, ordered by me today in Cr. Misc. App. No. S-518/2012 that the detenue and Mst. Zulfat shall stay at their parents' house till further orders, and the SHO P.S. Tamachani, District Sukkur, was directed to provide full and proper protection to the detenue as well as to all the three detenues in Cr. Misc. App. No. S-518/2012, namely, Mst. Zulfat, baby Seema, and baby Sumaira, and to ensure that no harm and / or harassment is caused to any of them or to any of their family members.

10. In view of the above referred order passed by me today in the connected Cr. Misc. App. No. S-518/2012, Mst. Sikandar (the detenue) named in this case has returned to her parents / family with her own free will and after recording her statement in this behalf before this

Court. The concerned police station has also been directed to provide full and proper protection to her. This application has, therefore, served its purpose and as such the same is disposed of.

The connected Cr. Misc. App. No. S-518/2012 is fixed before this Court on 20.9.2012 for compliance of the order passed therein today. Let the file of this case be tagged with the said Cr. Misc. App. No. S-518/2012 and be placed therewith before this Court on 20.9.2012.

JUDGE