

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

C.P No.S-647 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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|  | 1. For orders on office objections.  |
|  | 2. For hearing of M.A. No.1597/2021. |
|  | 3. For hearing of main case.         |

18.04.2022

Mr. Imam Bux Khaskheli, advocate for petitioner.  
Mr. Ahsan Gul Dahri, Advocate for private respondent No.4.  
Mr. Muhammad Ismail Bhutto, Additional Advocate General, Sindh.  
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The facts in brief necessary for disposal of instant constitutional petition are that F.I.R Crime No.77 of 2021 was lodged with P.S. Jam Dattar against the petitioner and others at the instance of private respondent for offence punishable under sections 506(2), 504, 147, 148, 447 and 109 P.P.C, same on investigation was recommended by the police to be cancelled under 'C' class. Learned Civil Judge/Judicial Magistrate Presiding Officer Consumer Protection Court Shaheed Benazirabad took the cognizance of the above said offence vide order dated 04.11.2021, which is impugned by the petitioner before this Court.

It is contended by learned counsel for the petitioner that learned Trial Magistrate by way of impugned order has taken the cognizance of the offence, without lawful justification; therefore, such order is liable to be set-aside.

Learned Additional Advocate General, Sindh and learned counsel for the private respondent by supporting the impugned order have sought for dismissal of instant petition by contending that the petitioner has an opportunity to seek her premature acquittal by filing such application before learned Trial Magistrate.

Heard arguments and perused the record.

It is settled by now that the opinion of the police has got no binding effect on the Courts and Courts have got ample powers to take the cognizance of the offence

on the basis of material brought before it. In the instant matter, the petitioner is named in the F.I.R and whatever is stated in F.I.R is taking support from ancillary evidence; therefore, the investigating officer of the case was not competent to have recommended the said F.I.R to be cancelled under 'C' class on the basis of affidavits of some independent persons. By such act, the investigating officer has acted as a Court, which alone is competent to evaluate evidence. In these circumstances, learned trial Magistrate by taking cognizance of the offence, by way of impugned order has committed no wrong, which may justify this Court to make interference with it. Consequently, instant constitutional petition being misconceived is dismissed together with listed application.

JUDGE

Muhammad Danish