ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

CR. MISC. APPLICATION NO.490/2021

Date Order with signature of Judge

- 1. For order on office objection as at A.
- 2. For hearing of main case.

02.03.2022

Mr. Liaquat Zaman advocate for applicant. Syed Rafique-un-Nabi advocate for respondent No.4. Ms. Seema Zaidi, APG.

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Heard and perused record.

Paragraph No.3, 4 and 5 of impugned order are that :-

3. "The I/O conducted the usual investigation, recorded the statements of witnesses under section 161 and conducted site-inspection. Cr.PC, I/O also interrogated the accused who disclosed that his father died in the year 1994 and complainant and accused lived together and they distributed the property of their father between themselves in presence of their mother and it was settled that house No.39/C situated at Phase 5 DHA Lahore would be in the name of the complainant and house No.21/1 situated at DHA Phase 5 Khayaban e Shamsheer would be in the name of accused. In the year 2008, the complainant and his mother gave power of attorney to the accused in respect of the house No.21/1 and it was registered in the presence of the complainant at Gadap town registrar office. During course of investigation the I/O applied for verification of said power attorney before registrar office Gadap town and vide letter NO/750/MFU/BOR/2018 the registrar office replied "the document in question is verified by this office and found correct/genuine as per this office record". Moreover, it was also unearthed during investigation that a civil suit 1790/2016 in respect of the said property is pending beore Hon'ble High Court.

4. Heard arguments. Record perused. Record reflects that there is a dispute of property inter se the parties and the complainant lodged the FIR against accused persons for the transfer of property, on the basis of forged power of attorney, by the accused persons in which the complainant alleges he was a shareholder. As per findings of the investigation, I/O applied for verification of the documents and which were proven to be correct and genuine documents and not bogus or manipulated. Neither any forgery on part of the accused persons, nor any fraudulent intention of accused persons

could be proved during entire course of investigation. Even otherwise the dispute inter se the parties is in respect of property, therefore the parties would effectively adjudicate their grievances before a civil forum instead of a criminal case.

5. Henceforth, the evidence for proving a criminal charge against accused appears to be slim as no forgery or fraudulent intention on part of accused persons is proved during course of investigation. The charge-sheet submitted by the I/O is agreed with and the matter is disposed of under 'C' class on the basis of insufficient evidence. Order accordingly.

Learned counsel for applicant claims disposal of report under section 173 CrPC under "B" class whereas case was disposed of in "C" class; but he has failed to demonstrate that false information was provided to the concerned SHO; hence criminal miscellaneous application is dismissed.

JUDGE

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